

City of Roswell
New Mexico

ZONING ORDINANCE NO. 10-02



Visitors Welcome.

AN AMENDMENT AND INCORPORATION OF ORDINANCES NO.
1227, NO.1301, NO.01-06, NO.02-2, NO.03-02, NO.03-12, NO.06-02,
NO.08-01 AND NO.08-07 TO BE KNOWN AS
**THE CITY OF ROSWELL
ZONING ORDINANCE NO. 10-02**

CITY OF ROSWELL - ZONING ORDINANCE

Table of Contents

Article

Section

1	<u>TITLE, PURPOSE, AND INTENT</u>	pg. 1
	1 Title	
	2 Purpose	
	3 Application of the Zoning Ordinance	
	4 Authority and Jurisdiction	
	5 Interpretation and Conflicts	
	6 Severability	
2	<u>ADMINISTRATION</u>	pg. 2
	1 Organization	
	2 Administration	
	3 Planning and Zoning Commission	
	4 Planning and Zoning Committee	
	5 City Council	
3	<u>PROCEDURES, AMENDMENTS, AND CHANGES</u>	pg. 4
	1 Procedures – Generally	
	2 Procedures – Public Hearings	
	3 Procedures – Protests to Proposed Cases	
	4 Voting Requirement	
	5 Appeal	
	6 Amendment to the Ordinance	
	7 Annexation of Territory	
	8 Special Use	
	9 Zone Change	
	10 Variance	
	11 Site Plan and Plan Review	
4	<u>DEFINITIONS</u>	pg. 10
	1 Rules of Interpretation	
	2 Definition of Terms	
5	<u>ESTABLISHMENT OF ZONING DISTRICTS</u>	pg. 18
	1 Establishment of Zoning Districts	
	2 Official Zoning Map	
	3 Zoning District and Annexation Boundaries	
6	<u>R – S RURAL SUBURBAN DISTRICT</u>	pg. 19
	1 Purpose	
	2 Use Regulations	
7	<u>R – 1 RESIDENTIAL DISTRICT</u>	pg. 20
	1 Purpose	
	2 Use Regulations	
8	<u>R – 2 RESIDENTIAL DISTRICT</u>	pg. 21
	1 Purpose	
	2 Use Regulations	

CITY OF ROSWELL - ZONING ORDINANCE

Table of Contents

Article	Section	
9	<u>R – 3 RESIDENTIAL DISTRICT</u>	pg. 22
	1 Purpose	
	2 Use Regulations	
10	<u>R – 4 RESIDENTIAL DISTRICT</u>	pg. 23
	1 Purpose	
	2 Use Regulations	
11	<u>(RMS) RESIDENTIAL MOBILE HOME SUBDIVISION</u>	pg. 24
	1 Purpose	
	2 Use Regulations	
	3 Area, Setback, and Height Requirements	
	4 General Standards	
12	<u>(MHC) MOBILE HOME COMMUNITY</u>	pg. 25
	1 Purpose	
	2 Use Regulations	
	3 Area, Setback, and Height Requirements	
	4 General Standards	
13	<u>(RVP) RECREATIONAL VEHICLE PARK</u>	pg. 28
	1 Purpose	
	2 Use Regulations	
	3 Site Development Requirements	
	4 Area, Setback, and Height Requirements	
	5 General Standards and Requirements	
14	<u>LOCATION OF MOBILE HOMES, TRAVEL TRAILERS, RECREATIONAL, AND/OR OVERSIZE VEHICLES OUTSIDE OF APPROVED DISTRICTS</u>	pg. 31
	1 Use Regulations	
	2 Site Restrictions	
15	<u>C – 1 NEIGHBORHOOD COMMERCIAL DISTRICT</u>	pg. 33
	1 Purpose	
	2 Use Regulations	
16	<u>C – 2 COMMUNITY COMMERCIAL DISTRICT</u>	pg. 34
	1 Purpose	
	2 Use Regulations	
17	<u>C – 3 CENTRAL BUSINESS DISTRICT</u>	pg. 35
	1 Purpose	
	2 Use Regulations	

CITY OF ROSWELL - ZONING ORDINANCE

Table of Contents

Article	Section	
18	<u>C – 4 WESTSIDE BUSINESS DISTRICT</u>	pg. 36
	1 Purpose	
	2 Use Regulations	
	3 Site Access Restrictions	
	4 Setback Requirements	
	5 Parking Requirements	
	6 Loading Requirements	
	7 Fences, Walls, Accessory Buildings, and Other Obstructions	
	8 Sanitation Dumpsters, Grease Bin, and Enclosure Requirements	
19	<u>I – 1 LIGHT INDUSTRIAL DISTRICT</u>	pg. 38
	1 Purpose	
	2 Use Regulations	
20	<u>I – 2 HEAVY INDUSTRIAL DISTRICT</u>	pg. 39
	1 Purpose	
	2 Use Regulations	
21	<u>(PUD) PLANNED UNIT DEVELOPMENT</u>	pg. 40
	1 Purpose	
	2 Use Regulations	
	3 Procedures, Requirements, and Standards	
	4 Building Permit Requirements	
	5 Decisions and Conditions	
22	<u>AREA, SETBACK, AND HEIGHT REQUIREMENTS</u>	pg. 42
	1 Generally	
	2 Residential Districts	
	3 Commercial and Industrial Districts	
23	<u>BUILDING AND PERFORMANCE STANDARDS</u>	pg. 44
	1 Purpose	
	2 Access to Public Streets	
	3 Buildings per Lot	
	4 Accessory Uses	
	5 Exceptions to Required Yards	
	6 Exceptions to Height Requirements	
	7 Off-Street Parking and Loading Requirements	
	8 Fences, Walls, and Other Obstructions	
	9 Outside Storage	
	10 Lighting	
	11 Landscaping	
	12 Site Specific Drainage Control Requirements	
	13 Site Specific Traffic Analysis Requirements	

CITY OF ROSWELL - ZONING ORDINANCE

Table of Contents

Article	Section	
24	<u>SPECIAL FLOOD HAZARD AREAS</u>	pg. 50
	1 Purpose	
	2 Finished Floor Elevation	
25	<u>TELECOMMUNICATIONS</u>	pg. 51
	1 Purpose and Legislative Intent	
	2 Exclusions	
	3 Permit Application Process and Other Requirements	
	4 Permit Application Contents and Other Requirements	
	5 Visibility of Telecommunications Facilities	
	6 Security of Wireless Telecommunication Facilities	
	7 Signage	
	8 Parameters of Telecommunications Permits	
	9 Application Fee	
	10 Liability Insurance	
	11 Default and/or Revocation	
	12 Temporary Communications on Wheels (COW)	
	13 Relief	
	14 Procedures for Removal	
26	<u>RENEWABLE/ALTERNATIVE ENERGY SYSTEMS</u>	pg. 57
	1 Purpose and Intent	
	2 Permit Application Process	
	3 Notification of Applicant and/or Certificate Holder	
	4 Permit Application Contents	
	5 General Building Requirements	
	6 Nuisance Control	
	7 Removal of a Renewable/Alternative Energy System	
	8 Safety Precautions	
	9 Setback Requirements	
	10 Height Restrictions	
27	<u>SIGNS</u>	pg. 62
	1 Statement of Purpose	
	2 Prohibited Signs	
	3 Signs Not Requiring a Permit	
	4 Permit Application Requirements	
	5 Maintenance of New or Legal Non-Conforming Signs	
	6 Signs Allowed in Residential Districts	
	7 Signs Allowed for Properties with a Special Use Permit in Residential Districts	
	8 Signs Allowed in Commercial and Industrial Districts	
	9 Sign Setback Requirements	
	10 General Guidelines for Sign Placement and Operation	

CITY OF ROSWELL - ZONING ORDINANCE

Table of Contents

Article	Section	
28	<u>HOME OCCUPATIONS</u>	pg. 66
	1 Purpose	
	2 Permits & Restrictions	
	3 General Guidelines for Minor and Major Home Occupations	
	4 Prohibited Home Occupations	
	5 Standards and Regulations for Minor Home Occupations	
	6 Standards and Regulations for Major Home Occupations	
29	<u>NON-CONFORMING USES</u>	pg. 70
	1 Purpose	
	2 Authority to Continue	
	3 Restrictions	
30	<u>PENALTIES FOR NON-COMPLIANCE</u>	pg. 71
	1 Enforcement	
	2 Inspections	
	3 Penalties for Non-Compliance	

ARTICLE 1: TITLE, PURPOSE & INTENT

Section 1. Title

This Ordinance shall be known as the "City of Roswell Zoning Ordinance" except as referred to and cited herein, where it shall be known as "this" or "the" Ordinance.

Section 2. Purpose

The regulations and restrictions hereinafter provided were created in accordance with the City of Roswell Comprehensive Master Plan, duly adopted, and approved and are intended to create orderly, harmonious, and economically sound development. These regulations and restrictions are designed to promote the public health, safety, and general welfare; to secure adequate light, space, and safety from fire and other dangers; to preserve property values; to prevent undue congestion of structures, streets, land, and population; to preserve schools, parks, and other public necessities; to divide the City into zoning districts which restrict and regulate the location and use of structures and land, whether for residential, commercial, industrial, or other specified uses.

Section 3. Application of the Zoning Ordinance

- A. All property within the City limits, except that property exempted by law, is governed by this Ordinance according to the zoning district in which it is located.
- B. No building or land shall be used, occupied, erected, moved, or altered unless it complies with the regulations specified for the zoning district in which it is located. No building shall exceed the height, accommodate a greater number of families, occupy a greater percentage of land area, or have smaller yards or setbacks than specified for the zoning district in which it is located. No part of a yard, off-street parking space, or other open space required for a building shall be included as part of a yard, off-street parking space or other open space required for another building.

Section 4. Authority and Jurisdiction

This Ordinance is enacted for the purpose of establishing and carrying into effect the powers, duties and privileges conferred upon the City of Roswell in, under and by Act of the New Mexico Statutes Annotated, 1978 together with acts mandatory thereof and supplementary thereto.

Section 5. Interpretations and Conflicts

It is not intended by this Ordinance to interfere with, repeal, or annul any ordinance, rules, regulations, or permits previously adopted or issued, which is not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, and is not in conflict with this ordinance. Nor is it intended to interfere with or repeal, or annul any easements, covenants or other agreements, except that in the event of a conflict, this Ordinance shall control.

Section 6. Severability

If any paragraph, clause, or provision of this Ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such article, section, paragraph, clause, or provision shall not affect any other part of this Ordinance.

ARTICLE 2: ADMINISTRATION OF ZONING ORDINANCE

Section 1. Organization

The administration of this Ordinance is hereby vested in the Planning and Zoning staff, the City Manager, the Planning and Zoning Commission, the Planning and Zoning Committee, and the Roswell City Council.

Section 2. Administration

The Planning and Zoning staff, under the supervision of the City Manager, shall administer and enforce the provisions of this Ordinance. In performing their duties, they shall:

- A. Receive, review, and analyze all zoning applications and research and prepare cases for all annexations, zone changes, special uses, variances, conditional uses, and amendments to this Ordinance which will be heard by the Planning and Zoning Commission and/or City Council.
- B. Report determinations concerning all cases heard by the Planning and Zoning Commission to the Planning and Zoning Council Committee and City Council.
- C. Receive and file copies of all written requests for appeals by any person(s) aggrieved with any cases heard by the Planning and Zoning Commission and any other matters relating to the administration and enforcement of this Ordinance, and transmit the same to the City Council.
- D. Cause inspections of buildings, structures, and uses of land to determine compliance with the provisions of this Ordinance, and where there are violations, initiate action to secure compliance.
- E. Coordinate and administer all site plan reviews for new commercial construction to determine if construction complies with the provisions of this and other City ordinances and City Code.
- F. Maintain permanent records of all current and past comprehensive master plans, zoning ordinances, maps, zone changes, special uses, variances, conditional uses, amendments to this ordinance, non-conforming uses, appeals, and applications, to include the recording of zoning district amendments and special uses on the official zoning map.
- G. Decide or make recommendations on all other matters under this Ordinance upon which the Planning and Zoning staff is required to act upon on a daily basis.
- H. Provide such technical assistance as may be required by the Planning and Zoning Commission or the City Council in the exercise of their respective duties.
- I. Provide public information services relative to matters arising out of this Ordinance.

Section 3. Planning and Zoning Commission

A board appointed by the Mayor consisting of seven members whose duty it is to review zoning and planning decisions, initiate planning and zoning projects and recommend action to the City Council.:

- A. Shall receive, hear, and make final determinations on all applications to come before them in the manner prescribed by the procedures established herein and report determinations to City Council.
- B. May instruct the City Manager, from time to time, to make or initiate studies and draft reports concerning issues arising from this Ordinance and from other planning and zoning practices.

Section 4. Planning and Zoning Council Committee

The Planning and Zoning Council Committee:

Shall receive, hear, and make recommendation(s) on all applications to come before them in the manner prescribed by the procedures established herein and report said recommendation(s) to the City Council.

Section 5. City Council

The City Council, being duly elected, shall:

- A. Receive recommendations from the Planning and Zoning Staff, the Planning and Zoning Commission, and the Planning and Zoning Council Committee on all cases required to be heard by them, including final plats being minor or major subdivisions, annexations, requests for amendments to this Ordinance, and any appeals to cases heard by the Planning and Zoning Commission which are appealed to the City Council, so Council can hear and make determinations upon the same in the manner prescribed by the procedures established by this and other City Ordinances and City Code.
- B. Receive and hear all written requests for appeals by any person(s) aggrieved with the Planning and Zoning Staff's decision concerning and related to the administration and enforcement of this Ordinance.
- C. Instruct the City Manager, from time to time, to make and initiate studies, draft reports, create strategic, and/or master plans concerning issues arising from this ordinance and from any and all other planning and zoning practices.

ARTICLE 3: PROCEDURES, AMENDMENTS, AND CHANGES

Section 1. Procedures - Generally

Applications for requested variances, annexations, conditional use, zone changes, special uses, plats, and amendments to this Ordinance shall be made and reviewed according to the following:

- A. An application may be initiated by City Council, the Planning and Zoning Council Committee, the Planning and Zoning Commission, City Manager, Planning and Zoning Staff, or any person owning property within the City Limits.
- B. Applicants shall first confer with the Planning and Zoning Staff, who shall initially review the proposed request and provide the approved application forms and methods prescribed by this Ordinance for making application.
- C. The applicant shall complete and submit the approved application forms, with help from the Planning and Zoning Staff, along with the processing fee by the required deadline for that given month.
- D. The Planning and Zoning Staff shall share the application with all departments affected by, or having authority over anything regarding the application. Meetings with the various departments shall be concluded within 10 business days after application deadline to allow Staff proper time to prepare the case for advertising prior to the Planning and Zoning Commission meeting for that month.
- E. The Planning and Zoning staff are required to advertise all cases a minimum of fifteen (15) days prior to the date of the Planning and Zoning Commission meeting for that month.
- F. The Planning and Zoning Staff are required to deliver all cases, the meeting agenda, and the minutes from the previous Planning and Zoning Commission meeting to all Commissioners, Committee members, City Council and City Management at least 48 hours in advance of the Planning and Zoning Commission meeting date and time.

Section 2. Procedures - Public Hearings

- A. Variances, annexations, conditional uses, zone changes, special uses, final plats, and amendments to this Ordinance are effective only after a public hearing has been held in which all interested parties and/or citizens have had an opportunity to be heard and all City statutory and ordinances have been met.
- B. Notice of the time and place of the public hearing shall be published at least fifteen (15) days prior to the date of the hearing per the New Mexico Open Meetings Act.
- C. Notice of public hearing shall be mailed via certified mail - return receipt requested to the property owners as shown by the records of the County Assessor, of lots or land within one hundred (100) feet of the area under consideration, excluding public rights-of-way.

Section 3. Procedures - Protests to Proposed Cases

- A. Any person(s) taking exception to a proposed case may file a written protest with the City Clerk prior to the public hearing(s) for a zoning case, whenever the case is to be considered.
- B. The written protest shall list the name(s), addresses and signatures of property owners supporting the protest, whether or not the protestor's property is within the 100 foot notification area, along with any reasons why the property owners take exception to the proposed case.
- C. Any person wishing to speak for or against a case before the Planning and Zoning Commission or Committee shall have three minutes to do so. Additional time may be allowed by the Chairperson.

Section 4. Procedures - Voting Requirements

- A. Written protests against a proposed case from property owners within the 100 foot notification area whose sum of property area is **less than** 20 percent of the total area within the 100 foot notification area shall require a favorable vote from the majority of the Commission members present at the meeting.
- B. Written protests against a proposed case from property owners within the 100 foot notification area whose sum of property area **exceeds** 20 percent of the total area within the 100 foot notification area shall require a two-thirds vote of all Commission members, whether present at the meeting or not, to approve the proposed case.
- C. The Commission's decision shall be final and effective after 12:00 noon on the second business day following the day of the Commission meeting.
- D. An appeal of the Commission's decision to the City Council shall stay the effective date of the decision until a decision on the appeal is made by the City Council at the next regularly scheduled City Council meeting.
- E. A case which has been denied by the Commission and/or the City Council may not apply again within one year from the date of the final denial, unless the new request is determined to be substantially different from the original request by the Planning and Zoning Office.

Section 5. Procedures - Appeals

A. Generally. Any person(s) aggrieved with a decision made by the Planning and Zoning Commission or City Staff in the enforcement of this Ordinance may appeal in the following manner.

B. Appeal of a Planning and Zoning Commission Decision.

- 1. The appeal shall be initiated by the filing of a written notice with the City Clerk prior to 12:00 noon on the second business day following the decision.
- 2. Prior to 5:00 p.m. on the second business day following the date of the decision, copies of the Written Notice of Appeal shall be mailed by the appellant to all persons supporting the decision.
- 3. The Notice of Appeal shall concisely and specifically set forth in writing the points which it is urged that the decision of the Planning and Zoning Commission be set aside by the City Council.
- 4. The appeal shall be heard by City Council at the next regularly scheduled meeting unless otherwise scheduled by the City Council.
- 5. In making a decision on the appeal, City Council shall consider only those concise and specific points on which the appellant, in his or her written notice of appeal, urges the City Council to set aside the decision of the Planning and Zoning Commission. The City Council may request reports from the City Staff in addition to the material submitted by the proponents and opponents of the appealed decision.
- 6. A decision to deny/approve an appeal of a proposed case **not requiring a favored two-thirds vote** by the Planning and Zoning Commission shall require a majority vote of all City Council members present.
- 7. A decision by City Council to overturn a proposed case that **required a favored two-thirds vote** by the Planning and Zoning Commission shall require a majority of all City Council members, whether present at the meeting or not.
- 8. The City Council may deny the appeal, reverse the decision of the Planning and Zoning Commission or make such modifications upon the appeal as it deems necessary to protect the public interest and not solely in the interest of the appellant.

C. Appeal of a City Staff Decision or Determination.

- 1. Any person(s) aggrieved with a determination made by City staff in the enforcement of this Ordinance may appeal the decision to the City Council.
- 2. Any person(s) must file a written notice of appeal with the City Clerk's Office within 15 calendar days following the determination made by City staff.
- 3. The notice of appeal shall concisely and specifically set forth in writing the points which City Council may consider in order to set aside the decision of City Staff.

4. The appeal shall be heard by City Council at its next regularly scheduled meeting unless otherwise scheduled by the City Council.
5. In making a decision on the appeal, the City Council shall consider points on which the appellant, in his written notice of appeal, urges the City Council to set aside the decision of the City Staff. City Council shall consider all oral and written statements from any members of the City staff affected by the appeal
6. A decision to deny or approve the appeal shall require a majority vote of all City Council members present.

D. Appeal of a Decision by the City Council. Any person(s) aggrieved with the decision of the City Council may present the decision to a court of competent jurisdiction for review within the time and in the manner required by state law.

Section 6. Amendments to this Ordinance

- A. Any person(s) can make application for an Amendment to this Ordinance which must state the section of the ordinance proposed for amendment, the proposed substitute wording, the reasons for requesting the amendment, and any other information which the Planning and Zoning staff and City Manager feels that the Commission and City Council may require to make a proper decision on the matter. Graphics or visual aids may also be submitted if desired.
- B. No amendment to this Ordinance can be adopted until a public hearing has been held by the Planning and Zoning Commission and City Council in accordance with this ordinance.
- C. The City Council shall consider the recommendation of the Planning and Zoning Commission in deciding whether or not to adopt a proposed amendment to this Ordinance. In its deliberations, both bodies shall consider all oral or written statements from the applicant, the public, City Staff, and its own members. Neither body shall approve the amendment unless it finds the proposed amendment is in the public interest and is not solely in the interest of the applicant.
- D. If approved, the Planning and Zoning staff shall revise this Ordinance accordingly.

Section 7. Annexation of Territory

- A. Land proposed to be annexed into the City territory must be contiguous with existing City boundaries. The City Manager and City Council can make a request to annex land into the City Territory for the benefit of the municipality. An application for an annexation-by-petition shall be accompanied by a plat from a registered Land Surveyor in the State showing the boundaries of land to be annexed, a legal description of the property to be annexed, a petition from the land owners within the area to be annexed showing at least 51% support for the annexation, and the additional information required on the City of Roswell annexation application form.
- B. No annexations shall be adopted until a public hearing has been held by the Commission and City Council and the 45 day referendum period has expired, in accordance with this ordinance.
- C. The Planning and Zoning Commission shall make a recommendation to City Council. City Council shall decide whether or not to annex the proposed property into City territory. In its deliberations, both bodies shall consider all statements from the applicant, the public, City staff, and its own members. Neither body shall approve the annexation unless it finds the annexation to be in the public interest and not solely in the interest of the applicant.
- D. Any territorial additions to the incorporated area of the City of Roswell resulting from annexation shall be classified and regulated as an (R-S) Rural Suburban District. All uses in existence prior to being annexed and incorporated into the City which are not permitted in the R-S - Rural Suburban District shall be deemed as legal non-conforming uses, thereby limiting the extent of the property's use until the property is rezoned into conformance with this ordinance. Property cannot be rezoned until after it has been legally incorporated into the City limits.

Section 8. Special Uses

- A. Within any zoning district the use of land and buildings and their location on the land are substantially uniform; however, there are special uses which, because of their unique character and special and unusual impact on adjacent properties, cannot be properly classified into any zoning district without consideration of the impact of those uses upon adjacent properties, the public, and the need for the particular use in location. Special uses are those traditionally operated by a public agency to benefit the public at large; however, some special uses are private in nature.
- B. The applicant for a special use shall be the property owner or agent. The application shall include a development plan with the following information:
 - 1. The legal and common description of the property to be considered for a special use.
 - 2. The property's present zoning classification.
 - 3. A site plan showing the subject property, structures, and adjacent properties.
 - 4. The location, dimensions, and square footage of all structures, existing and proposed.
 - 5. The location of all existing/proposed curb cuts, parking, loading areas, sidewalks, landscaping, screening, open spaces, signage, lighting, and other related items.
 - 6. The special use requested and the reasons for requesting it.
 - 7. Other information the Planning and Zoning Commission may need to make a decision.
- C. No special use request shall be approved until a public hearing has been held by the Planning and Zoning Commission in accordance with this ordinance.
- D. The Commission shall decide whether or not to approve a request for a special use. In its deliberations, the Commission shall consider the impact of the special use upon the public health, safety, and welfare of the community; the existing and anticipated vehicular/pedestrian traffic flows; parking conditions, setbacks, and height; landscaping and screening; open spaces; signage; lighting; and other items. The Commission shall not approve a special use unless it finds it conforms to the City's Land Use Plan, is in the public interest and is not solely in the interest of the applicant.
- E. Limitations, Amendments, and Revisions. The Commission may approve, deny, or table a special use request for not more than one regularly scheduled meeting or for a period of time specified at the public hearing. The Commission may stipulate conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use as deemed necessary to protect the value, utilization, and operation of adjacent properties, and to insure compliance with the requirements of this and other ordinances. If approved, the Zoning Administrator shall revise the official zoning map.
- F. Alterations or changes to the approved development plan shall require a public hearing for the modification of a Special Use Permit, which will be held by the Commission in accordance with this Ordinance.

Section 9. Zone Changes

- A. The Commission may change the zoning classification on parcels of land within the City Limits. These changes in zoning shall be for the purpose of meeting the land use needs of the residents of the City in conformance with the City's Land Use Plan.
- B. The applicant for a zone change shall be the property owner or agent. The application shall include the following information:
 - 1. The legal and common description of the property to be rezoned.
 - 2. The property's present and proposed zoning classification.
 - 3. The recommendation for use of the property by the City's Land Use Plan.
 - 4. The reasons for requesting the rezoning.
 - 5. Other information the Planning and Zoning Commission may need to make a decision.

- C. No zone change shall be adopted until a public hearing has been held by the Planning and Zoning Commission in accordance with this ordinance.
- D. The Commission shall decide whether or not to approve a request for a zone change. In its deliberations, the Commission shall not approve a zone change unless it finds it conforms to the City's Land Use Plan, is in the public interest, and is not solely in the interest of the applicant.
- E. The Commission may approve, deny, or table a request for a zone change for not more than one regularly scheduled meeting or for a period of time specified at the public hearing. The Commission may approve an amendment to the original request for a zone change by changing the zone change request to a more restrictive zoning classification than requested. The R-S District is the most restrictive classification and the I-2 District is the least restrictive. Once the zone change is approved, the Zoning Administrator shall revise the official zoning map.

Section 10. Variances

- A. The Commission may approve a variance to the zoning requirements for a property if the reason for the requested variance is due to the property being of exceptional narrowness, shallowness, shape, or having topographical or other extraordinary conditions which prevent the property owner from being able to comply with the zoning requirements and, if the strict application of this ordinance would result in a peculiar, exceptional, or undue hardship, as opposed to a mere inconvenience upon the property owner.
- B. The applicant for a variance shall be the property owner or agent. The application shall include the following information:
 - 1. The legal and common description of the property to be considered for a variance
 - 2. The property's present zoning classification.
 - 3. A site plan drawn to scale showing the subject property and all adjacent properties.
 - 4. The location, dimensions, and square footage of all structures, existing and proposed.
 - 5. The variance requested and existing hardships that caused the variance request.
 - 6. Any other information the Planning and Zoning Commission may need to make a decision.
- C. No variance request shall be approved until a public hearing has been held by the Planning and Zoning Commission in accordance with this ordinance.
- D. The Commission shall decide whether or not to approve a variance request based on all oral and written statements from the applicant, the public, the City staff, and its own members. The Commission shall also consider the effect of the proposed variance upon, neighborhood traffic, the public health, safety, and welfare of the community. The Commission shall not approve a variance unless it is satisfied that the request will alleviate some unusual hardship, is consistent with the general intent of this Ordinance, that it conforms to the City's Land Use Plan, and that it is in the public interest and is not solely in the interest of the applicant.
- E. **Limitations, Amendments, and Revisions.** The Commission may approve, deny, or table a variance request for not more than one regularly scheduled Commission meeting or for a period of time specified at the public hearing. The Commission may stipulate conditions and restrictions upon the property benefited by the variance as may be necessary to comply with the standards set forth in this Ordinance, to reduce or minimize the adverse effect the variance may have upon adjacent properties, and to ensure consistency with the general intent of the ordinance.

Section 11. Site Plan & Plan Reviews

- A. **Generally.** Site Plans for all commercial developments are required to promote attractive, well-planned and stable urban conditions. A Site Plan review ensures compatible interaction of the development with conditions surrounding the subject property and ensures the developments conformance with the regulations, provisions, and general intent of this and other Ordinances.

- B. Site Plan Requirements.** A Site Plan review of all proposed multiple-family dwellings, mobile home parks, professional offices, commercial, industrial, and other non-residential developments shall be required and submitted as part of the Building Permit process. Contact the Planning and Zoning Office for the requirements needed to complete a Site Plan or Plan Review.
- C. Review and Decision by the City Staff.** City Staff may review preliminary site plans, preliminary construction plans and plans for a Foundation Permit or a Building Permit as needed for each project. Four sets of plans shall be submitted to the Planning and Zoning Office and a Building Permit application may be filled out in advance. The Planning and Zoning Office shall coordinate and schedule all Site Plan reviews. City Staff shall decide whether to approve the plans, approve them with comments or deny them, based on the information provided.
- D. Limitations, Alternatives, and Revisions.** City Staff shall complete the Site Plan review within five business days from time of submission of all required documents and/or paperwork.

Section 12. Certificate of Occupancy (C-of-O)

- A. Generally.** A C-of-O shall be required before the owner may occupy a newly erected building, an existing building that has been remodeled, or for any change in use of an existing building. No building shall be occupied until it is determined by City Staff that the building, its premises, and its use conform to the regulations of this and other Ordinances.
- B. Certificate of Occupancy Application.** A C-of-O and/or a Business License must be approved by the Building Department before occupying new or structurally altered buildings.
- C. Issuance of a Certificate of Occupancy.** A C-of-O is issued by the Building Inspector within 10 business days after completion of construction and inspection by City Staff. The Building Inspector shall not issue a C-of-O until all City Staff determine that the building and its use conforms to the regulations of this and other Ordinances. The Building Inspector may issue a sixty (60) day, temporary Certificate of Occupancy (T-C-O) to allow for completion of punch-list items and partial occupancy. The Building Inspector may impose contingencies on either a C-of-O or T-C-O.

ARTICLE 4: DEFINITIONS

Section 1. Rules of Interpretation

Language set forth in this Ordinance shall be interpreted in accordance with the following:

1. Words used in the present tense shall include the past and future tense.
2. Singular number shall include the plural and the plural the singular.
3. The words "shall" and "must" are mandatory and not discretionary.
4. The word "may" is permissive.
5. The masculine gender shall include the feminine and neuter genders.
6. The word "lot" shall include the words "piece", "parcel", "block", and "tract".
7. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
8. The word "building" shall include the word "structure".
9. Any words not defined herein shall be as defined by Webster's Dictionary.

Section 2. Definitions

For the purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section.

Abut, abutting. To touch along a border line; to border on a property or zoning district line.

Accessory Facility or Structure. Secondary structures located on the same property as the Principle Structure, Renewable/Alternative Energy System, or Telecommunications Facility, but not limited to, utility or transmission equipment storage sheds or cabinets.

Abandon. To cease from maintaining, practicing, or using.

Adjacent. Being in close proximity with the absence of anything in between the two items.

Administrator. The Planning and Zoning Office of the City of Roswell.

Administrative Approval. Approval received by the Administrator.

Agri-business. A business directly supportive of an agricultural use as defined herein.

Agriculture. Land and/or structures whose principal use includes the growing of farm crops, truck garden crops, animal/poultry husbandry, dairying, floriculture, horticulture, pasturage, and accessory uses customarily incidental to agricultural activities.

Airport, heliport. Any premises intended for the purpose of landing and take-off of aircraft.

Alley. A secondary means of vehicular right-of-way affording access to neighboring properties.

Alteration. Any change in size, shape, character, occupancy, or use of a building or structure.

Ambient light. Light from the nearby environment, whether natural or mechanical in nature.

Amusement establishment. A structure or facility offering varieties of recreational activities such as but not limited to, pool halls, miniature golf, driving ranges, go-cart tracks, amusement parks, skating rinks, and game rooms.

Animal hospital, clinic. A building used for the care and treatment of animals.

Applicant. The person(s) responsible for the filing the application.

Application. All documents submitted by an applicant to receive a permit or ruling.

Antenna. A system of electrical conductors that transmit or receive electromagnetic waves, radio frequency or other wireless signals and services not licensed by the FCC, but not expressly exempt from the City's citing, building and permitting authority.

Auditorium. A building for public gatherings to hear a performance or other presentations.

Automobile/motor vehicle sales. An area used to display/sell automobiles or motor vehicles.

Automobile laundry. A building where automobiles or motor vehicles are washed.

Automobile service station. A building or portion thereof where gasoline, diesel fuel and other automobile fuels or oils are offered for sale and where automotive repairs may be offered.

Block. A tract of land bounded by streets, alleys, railroads, or river channels.

Boarding or lodging home. A building for accommodating persons, not members of the keeper's family and not a hotel/motel, where lodging and meals are provided for definite periods.

Boundary. A border dividing territories or properties.

Buildable area. The area remaining on a lot after the minimum yard setback requirements have been met.

Building/Structure. Any building constructed for the support, shelter, or enclosure of persons, animals, chattels or moveable property of any kind, and which is permanently affixed to the land.

Building, accessory. A subordinate structure which serves a principal building, which is subordinate in area, extent, and/or purpose to the principal building and contributes to the comfort, convenience, and/or necessity of the occupants of the principal building being served.

Building, conforming. A structure which complies with this Ordinance or any amendment thereto and is intended for a use permitted in the zoning district where it is located.

Building, non-conforming. A structure which does not comply with this Ordinance or any amendment thereto and is intended for a use not permitted in the zoning district where it is located.

Building, principal. The primary structure where the principal use of the lot is conducted.

Building, temporary. Any structure not permanently affixed in place.

Business. Any enterprise where goods are sold or services are rendered.

Campground. Includes, but is not limited to tourist camps, travel trailer camps or parks, recreation camps, family campgrounds, camping resorts, camping communities, or any area on which three or more campsites occupy the area for recreational uses only.

Camping Unit. Tent, tent-trailer, travel trailer, camping trailer, pickup camper, motor home, recreational vehicle or any other unit used as temporary living quarters for recreational purposes.

Carport. An open-sided shelter for a car, attached or detached to a structure.

Certificate of Occupancy/Compliance. A document issued by the Administrator or Building Inspector after the final inspection.

Certified or Certification. Documents bearing the signature and seal of a professional Engineer or Architect licensed in the State of New Mexico.

City Council or Council. The City of Roswell governing body.

Changeable Copy Sign. A sign with physically interchangeable characters or letters.

Child care center. A commercial facility where services and supervision are provided for more than six children at a time.

Child care home. A residence where services and supervision are provided for no more than 12 children at a time.

Club or lodge. A building which restricts entry to anyone other than members and their guests.

Co-location. A structure to support a wireless services antennae without increasing the height of the structure or adding a new wireless carrier/service provider to an existing structure.

Commission. The City of Roswell Planning and Zoning Commission.

Committee. The City of Roswell Planning and Zoning Council Committee.

Completed Application. An application containing all of the required information.

Comprehensive Plan. The Comprehensive Master Plan approved and adopted by the City.

DSA - Display Surface Area. The square footage of the area of a sign utilized for displaying a message or advertising, but not including the framework or bracing incidental to the display itself.

Duplex. A two family attached dwelling unit located on a single lot held under one ownership.

Dwell Time. The duration of time each individual advertisement or message is displayed, without movement, on a sign capable of sequentially displaying more than one advertisement or message.

Dwelling. A building or portion thereof used for residential purposes. Not including hotels, motels, mobile homes, travel trailers, lodging, boarding, group care, or nursing homes.

Dwelling, attached. A dwelling permanently attached to another dwelling on the same lot.

Dwelling, detached. A dwelling on a single lot which is surrounded by open space.

Dwelling, multi-family. A structure housing three (3) or more dwelling units on the same lot.

Dwelling unit. Rooms used as living quarters for a family with the amenities/facilities of a home.

Easement. a limited legal right to use something.

F.A.A. The Federal Aviation Administration or its authorized successor agency.

Facility. A building, structure, or device whose sum of all parts provides a functional use.

Family. One or more persons related to each other, or a group of persons not related, living together in a dwelling unit. A family may also include boarders, roomers, or permanent guests.

Farm. Any tract of land where income is derived from activities defined in the term "agriculture".

F.C.C. The Federal Communications Commission or its authorized successor agency.

Fence. A structure erected on a property to prevent escape or intrusion.

Floor area, gross. The square footage of a structure measured from the exterior face of walls.

Floor area, net. The interior square footage of a structure measured from the interior face of walls or for figuring parking, the area not considered off-limits to customers inside of a business.

Frame Effect. A digital sign visual effect used to transition from one message to the next.

Garage, public. A structure used for storage of automobiles.

Height. The distance from the pre-existing grade to the highest point on a structure.

Home Occupation. A home business operated in accordance with Article 26.

Home Space. Specific area set aside for occupancy within a Manufactured/Mobile Home Community (MHC) which is offered for rent or lease.

Hotel, motel. A building containing lodging accommodations for paying temporary guests.

Independent Camping Unit. Unit including operational water-flush toilet, sink, and shower.

Junkyard. A facility or structure thereof used for the storage and possible resale of anything discarded by others.

Kennel. Any structure, premise, or portion thereof in which more than three animals over six months of age are kept, maintained, boarded, bred, or cared for in return for remuneration or are kept for the purpose of sale.

Lot. A parcel of land adequate in size for occupancy by a permitted use which is part of a subdivision or described by metes and bounds with a legal description recorded with the County.

Lot area. The square footage of a lot.

Lot, corner. A lot where two intersecting sides abut public or private streets.

Lot, depth. The average distance between the front and rear property lines.

Lot, double frontage. A lot having frontage on two parallel streets.

Lot, interior. A lot other than a corner or double frontage lot.

Lot lines. The property boundary lines of a lot.

Lot line, front. The property line of a lot abutting a street, except on a corner lot, where the front lot line shall be the lot line abutting a street with the shortest dimension.

Lot line, rear. The lot line which is approximately parallel to the front lot line. If the rear lot line is less than ten (10) feet in length or if the two side lot lines form a point, then the rear lot line shall be a line ten (10) feet in length within the lot, parallel to the front lot line.

Lot line, side. One of two lot lines which is not a front or rear lot line.

Lot width. The average distance between the two side property lines.

Manufactured/Mobile Home Community (MHC). 2 or more manufactured/mobile homes located on a tract of land held under single ownership which provides permanent residential spaces for a fee.

Manufactured Home/Multi-sectional Manufactured Home. Modular or pre-manufactured homes constructed in a factory and built to Uniform Building Code standards, designed to be permanently affixed to real property, or any moveable housing structure over 12' x 40' which is used for non-residential purposes, or any housing structure over 32' x 8' constructed to be towed and installed with or without permanent foundation Not for recreational usage.

Material or Material Change. A significant change to a facility which may require a determination be made on the basis of the anticipated actual or potential impact of the change. Changes that affect the physical appearance, facility's structural loading, NIER, or safety of the facility would be material changes. The Administrator shall determine, based on an individual case basis, and applying this definition whether or not changes are material.

Mobile home. A dwelling unit built on a chassis, not less than eight (8) feet wide and forty (40) feet long, designed to be used as a dwelling, with or without a permanent foundation.

Modification or Modify. To make changes to something.

Motor freight terminal. A structure where freight is shipped and received by truck or rail.

Multi-family residence. A dwelling unit in which two or more families reside in.

Natural feature. A feature produced or created by nature

Net acre. The area remaining after deductions, measured in acreage.

Net floor area. The floor area of the building accessible to or devoted to use by the customer or patron. Net floor area shall not include those areas used for storage, cooking, stairwells, etc.

NIER. The Non-Ionizing Electromagnetic Radiation.

NIT. The unit of illuminative brightness equal to one candela per square meter, measured perpendicular to the rays of the source.

Notification area. The surrounding area or properties of a certain lot or tract of land.

Official Government Sign. A sign erected by an official governmental entity.

Open Space. Land which has been set aside in an undeveloped state due to their unique characteristics or the necessity of buffering developed areas.

Outside storage. The outside collection of materials that is not covered by a structure.

Oversized Vehicle. A vehicle, trailer, or boat which exceeds 22 feet in length, 8 feet in width, or 10 feet in height.

Owner. The property owner and/or his or her designated agent.

Patio Home. See Townhouse

Premises. Lot, tract, or piece of land with structures on it.

Permit. The official City document enabling the construction or installation of a structure.

Person. Means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

Personal Wireless Services Facility. See Wireless Telecommunications Facilities.

Personal Wireless Services ("PWS") or Personal Communications Service. Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

Professional office. The place of business for a professional or group of various professionals.

Recreation building or community center. A facility offering recreational activities.

Recycling center. A facility which is used to process and recycle various materials.

Renewable/Alternative Energy Site. The site, property, or location where the Renewable /Alternative Energy System will be placed or installed.

Renewable/Alternative Energy Systems. Any and all equipment used in the conversion, collection, storage

and/or transfer of renewable/alternative energy into a usable form of energy.

Repairs and Maintenance. The repair, maintenance, or replacement of components that is necessary to make a system function properly where the replacement is similar to the existing component.

Right-of-Way. Public land dedicated for a street, walk, utility, drainage, or other public purpose.

Roof Sign. A sign erected upon or above a roof or parapet of a building or structure.

Seating capacity. The seating capacity of an area indicated by the Uniform Building Code.

Signalized Intersection A synchronized motor vehicle traffic control light at intersections.

Sight Triangle. A triangular portion of land where roadways intersect or egresses intersect with roadways which are to be kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. Typically, this area is defined from a point 10 feet from, and perpendicular to, the street (the approximate distance of a driver in a vehicle), with an open line of sight being 60 degrees horizontally in either direction.

Sign. Any item or structure used to display a visual image, message, or advertising on any building, structure, or surface produced by the construction, erection, attachment, or placement of a structure or object on any land or on any other structure.

Types of Signs:

Banner Sign. A sign made of non-rigid material with no enclosing framework attached to a pole or structure. Flags shall not be considered banners.

Billboard Sign. A large outdoor sign in commercial/industrial districts or along highways constructed for the sole purpose of being rented for advertisement.

Directional/Informational Sign. An on-premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g. parking or exit and entrance signs. May contain logo provided that the logo does not comprise more than 20% of the total sign area.

Digital Sign. An electronic advertisement/message sign which includes, but is not limited to, digital display boards, electronic variable message signs, electronic billboards, and LED signs.

Flashing Sign. A pattern of on-and-off light illumination which alternates suddenly and repeatedly.

Free-Standing Sign. A sign erected on a self-supporting framework placed in or on the ground.

Marquee Sign. Any permanent sign projecting from a building over a walkway or driveway.

Monument Sign. A stand-alone, permanent ground sign usually made of concrete, brick, masonry, or stone which identifies a service, business, or entity.

On-Premise Sign. A sign advertising the business or activity located on the same property.

Pole Covered Sign. A free-standing, metal covered sign used to enclose or decorate the pole, brace, or other structural supports.

Portable/Temporary Sign. A moveable sign not meant to be permanently affixed or secured.

Projecting Sign. A sign which is attached to and projects out from a building or structure.

Roof Sign. A sign erected upon or above a roof or parapet of a building or structure.

Temporary Signs. Any sign not designed to be permanent or fixed in place.

Wall Sign. A sign which is attached flush to or erected on the exterior of a wall which advertises the business or activity located inside the structure or on the same property.

Single family residence. A single family detached dwelling unit.

Solar Energy System. All components needed to convert Sun energy into useable energy.

State. The State of New Mexico.

Static Message. A message or advertisement in which the lighting and message remain constant.

- Stealth or Stealth Technology.** Anything used to minimize the adverse effects or improve the aesthetics of the area of the requested location.
- Story.** That portion of a building included between the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. International Building Code.
- Street; arterial.** A street designed to carry large volumes of traffic as designated on the Functional Street Classification Map in the City's Comprehensive Master Plan.
- Street; collector.** A street designed to carry moderate volumes of traffic as designated on the Functional Street Classification Map in the City's Comprehensive Master Plan.
- Street; local.** A street designed to carry low volumes of traffic as designated on the Functional Street Classification Map in the City's Comprehensive Plan.
- Street; road or highway.** A permanent public or private right-of-way for vehicular use.
- Structure.** A building, dwelling unit, tower, antennae, or facility that is constructed or installed.
- System.** The sum of all components used to make up a complete system.
- Telecommunication Site.** Means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- Telecommunications Permit.** Means the official permit that allows the Applicant to construct and use Wireless Telecommunications Facilities as granted or issued by the City.
- Telecommunications Structure.** Means a structure used in the provision of services described in the definition of 'Wireless Telecommunication Facilities'.
- Temporary.** Lasting for a limited time.
- Tower.** (See also *Antenna* and *Wireless Telecommunications Facility*) A structure situated on a site intended for transmitting/receiving television, radio, telephone, or dispatch communications.
- Townhouse.** Including but not limited to Patio Homes; being one structural unit of contiguous single-family dwelling units which are joined by a common wall/property line.
- Transition Time.** The duration or interval of time it takes a multi-face sign to go from one advertisement or message to the next advertisement or message on its display surface area.
- Travel trailer or recreational vehicle.** Any vehicle or portable structure, with or without mobile power, designed to be driven, drawn, or placed on a vehicle for short term dwelling.
- Use.** The purpose or activity which a piece of property and/or a building are intended to be used.
- Use, accessory.** A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal use or building.
- Use, conditional.** Any use which may be established in the particular zoning district in which it is allowed only upon meeting the conditions and limitations as prescribed by this Ordinance.
- Use, conforming.** The use of a building or premises which complies with all of the applicable use regulations of the zoning district in which said building or premises is located.
- Use, non-conforming.** The use of a building or premises which does not comply with all of the applicable use

regulations of the zoning district in which said building or premises is located.

Use, permitted. The use of a building or premises which complies with all of the applicable use regulations of the zoning district in which said building or premises is located.

Use, principal. The primary use of a building or land as distinguished from an accessory use.

Use, special. Any use that has unusual operational, physical, or other characteristics that are different from those of the predominant permitted uses in a zoning district, but which can complement and be made compatible with the intended over-all development in a zoning district.

Wall Surface Area. The length of the wall times the height of the wall.

Warehouse. A place for storage of merchandise or commodities.

Wind Energy System. All components used to convert wind energy into useable energy.

Wireless Telecommunications Facilities. Include a "Telecommunications Site" and "Tower" and "Personal Wireless Facility" and means a structure or location intended to be used to support Antennas or other transmitting/receiving devices, including without limit structures of all types and kinds and that can employ stealth technology. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC.

Yard. An open space on the same lot as a principal building or group of buildings, which extends along a lot line and at right angles thereto to a depth or width specified in the minimum required yard regulations for the use and zoning district in which the lot is located.

Yard, required front. The setback area at the front of a building where no structures may be built.

Yard, required rear. The setback area at the rear of a building where no structures may be built.

Yard, required side. The setback area on the sides of a building where no structures may be built.

Zero lot line. A lot or tract of land containing no required setback area along said lot line.

ARTICLE 5: ESTABLISHMENT OF ZONING DISTRICTS

Section 1. Establishment of Zoning Districts

In order to fulfill the purposes and provisions of this Ordinance, the area within the corporate limits of the City of Roswell is divided into the following zoning districts:

<u>Residential</u>	R - S	Rural Suburban District
	R - 1	Residential District
	R - 2	Residential District
	R - 3	Residential District
	R - 4	Residential District
	RMS	Mobile Home Subdivision District
	MHC	Mobile Home Community District
	RVP	Recreational Vehicle Parks and Campground District
<u>Commercial</u>	C - 1	Neighborhood Commercial District
	C - 2	Community Commercial District
	C - 3	Central Business District
	C - 4	Westside Business District
<u>Industrial</u>	I - 1	Light Industrial District
	I - 2	Heavy Industrial District
<u>Mixed Use</u>	PUD	Planned Unit Development District

Section 2. Official Zoning Map

The location and boundaries of the zoning districts established by this Ordinance are set forth on the official zoning map hereby adopted by reference and declared to be an official record.

1. The official zoning map for the City is located in the Planning and Zoning Department, which is the final authority on the zoning status of all lands within the City limits.
2. Whenever changes are made to zoning district boundaries, they shall be made promptly on the official zoning map by the Zoning Administrator and become a part thereof.
3. Changes to the zoning map can only be made by the Planning Director or the Zoning Administrator. No other persons can make changes to the official zoning map.
4. Should the official zoning map become worn, damaged, destroyed, lost, or difficult to interpret for any reason, the Planning and Zoning Commission may adopt a new official zoning map to replace the previous one. The newly adopted official zoning map may only correct drafting or other errors and omissions from the previous zoning map, but such corrections shall not amend or changing existing zoning districts or boundaries.

Section 3. Zoning District and Annexation Boundaries

Whenever uncertainty exists with respect to the boundaries of the various zoning districts or annexations as indicated on the official zoning map, the following rules shall apply:

1. Zoning district boundary lines are the centerline of streets, alleys, railroads, river channels, or easements or the boundary lines of sections, divisions of sections, tracts, blocks, lots, or lines that may extend through lots as otherwise indicated. Verification of the exact locations may be found in the cases on file.
2. Annexation boundary lines shall include all right-of-way of any abutting street(s).

ARTICLE 6: R-S RURAL SUBURBAN DISTRICT

Section 1. Purpose

This district is intended for agricultural uses, very low density single family residential development, one residential unit per 2.5 acres, and other uses which maintain the low density residential nature of the district.

Section 2. Use Regulations

A. Permitted Uses in the R-S district are as follows:

1. Agricultural uses
2. Animals, livestock
3. Minor home occupations
4. Publicly owned police/fire stations/parks or playgrounds and related buildings
5. Temporary real estate sales office for use during subdivision development
6. Single family detached dwellings
7. Temporary buildings/mobile homes for use during construction work (to be removed upon completion or abandonment of the construction work).

B. Special Uses in the R-S district are as follows:

1. Agri-businesses and plant nurseries
2. Airports, heliports, and aircraft landing fields
3. Cemeteries, including mausoleums
4. Churches, convents, monasteries, parish houses, rectories, seminaries, and other places of worship and those uses usually associated with them like child care services
5. Golf courses and related buildings
6. Landfills
7. Extraction, loading, hauling, screening, crushing, washing, and storage of sand, gravel, topsoil, or other aggregate or minerals, including supporting equipment and buildings.
8. Oil and gas wells and pumping stations
9. Penal, correctional, and other institutions necessitating restraint of occupants
10. Public utility/service/television/radio companies
11. Riding academies, stables and similar uses
12. Schools; public or private, elementary, secondary, and colleges

ARTICLE 7: R-1 RESIDENTIAL DISTRICT

Section 1. Purpose

This district is intended for low density single family detached dwellings, five units per net acre, and other uses which uphold and maintain the low density residential nature of the district.

Section 2. Use Regulations

A. Permitted Uses in the R-1 district are as follows:

1. Single family detached dwellings
2. Minor home occupations
3. Publicly owned police/fire stations/parks or playgrounds and related buildings
4. Temporary real estate office for use during the development of a residential subdivision (to be removed upon completion or abandonment of the development project).
5. Accessory uses (must accompany a principal structure)

B. Special Uses in the R-1 district are as follows:

1. Cemeteries and mausoleums
2. Churches, convents, monasteries, parish houses, rectories, seminaries, and other places of worship and those uses usually associated with them like day care services
3. Community Association swimming pools and/or recreational facilities
4. Golf courses and related buildings
5. Public utility and service facilities.
6. Schools; public or private, elementary, secondary, and colleges

ARTICLE 8: R-2 RESIDENTIAL DISTRICT

Section 1. Purpose

This district is intended for low to medium density dwellings units, five to nine units per net acre, and other uses which uphold and maintain the low to medium density residential nature of the district.

Section 2. Use Regulations

A. Permitted Uses in the R-2 district are as follows:

1. Any use permitted in the R-1 District
2. Manufactured/Mobile homes on individual lots as designated areas recommended and outlined on the official zoning map and by the Comprehensive Master Plan. Applicant for such use shall meet the standards set forth for that zoning District and apply for a permit from the City's Building Department after receiving consent from the majority of property owners on both sides of the street within the same block in which the subject property is located and any other property owners within the 100 foot notification area.
3. Townhouse.
4. Duplex

B. Special Uses in the R-2 district are as follows:

1. Any special use permitted in the R-1 District.

ARTICLE 9: R-3 RESIDENTIAL DISTRICT

Section 1. Purpose

This district is intended for medium density residential uses provided through a variety of housing types and other non-residential uses that are compatible with the surrounding area and which uphold and maintain the medium density residential district, 9 dwelling units per acre. Multiple family dwellings in excess of two story structures are not permitted. A six foot screen fence shall be required for religious assemblies, multiple family dwellings, assisted living homes, group homes, etc., and/or any Special Use (Section 2.B.), along all property lines abutting residential districts.

Section 2. Use Regulations

A. Permitted Uses in the R-3 district are as follows:

1. Any use permitted in the R-2 District
2. Churches, convents, monasteries, parish houses, rectories, seminaries, and other places of worship and those uses usually associated with them like child care services.
3. Multiple family dwellings with no more than 9 dwelling units per net acre for single story and 18 dwelling units per net acre for two story dwellings.
4. Major Home Occupations (Conditional Use Permit Required)
5. Assisted living homes, group care homes, convalescent homes, and retirement centers. (Occupancy load to be determined by the Building Inspector and Fire Marshall.)

B. Special Uses in the R-3 district are as follows:

1. Any special use in the R-2 District.
2. Parking lots as a principal use.
3. Bed & Breakfast - Three (3) units maximum including the operators dwelling unit.
4. Boarding or lodging homes
5. Hospitals and sanitariums
6. Libraries
7. Museums and art galleries
8. Professional offices not exceeding 7,500 square feet in gross floor area
9. Professional offices not exceeding 10,000 square feet in gross floor area, where an additional 5% landscaping shall be provided and side yard setbacks on interior lot lines shall be no less than 10 feet.
10. Recreation buildings and community centers
11. Schools, such as, music, dance, business, commercial, and trade.

ARTICLE 10: R-4 RESIDENTIAL DISTRICT

Section 1. Purpose

This district is intended for high density residential uses provided through a variety of housing types and other non-residential uses that are compatible with the surrounding area and which uphold and maintain the high density residential nature of the district. Multiple family dwellings in excess of two stories and which exceed the high density requirements of dwelling units per net acre shall be reviewed and approved by the Planning and Zoning staff, Building Inspector, and Fire Marshall prior to the issuance of a Building Permit to ensure that the life safety issues have been addressed and the development fits in with the area or neighborhood where the proposed dwelling units are to be built. A six foot screen fence shall be required for religious assemblies, multiple family dwellings, assisted living homes, group homes, etc., and/or any Special Use (Section 2.B.), along all property lines abutting single family residential dwellings.

Section 2. Use Regulations

A. Permitted Uses in the R-4 district are as follows:

1. Any permitted use or special use permitted in the R-3 District.
2. Multiple family dwellings with no more than 16 dwelling units per net acre for single story and 32 dwelling units per net acre for two story dwellings.

B. Special Uses in the R-4 district are as follows:

1. Any special use in the R-3 District.
2. Professional offices not exceeding 15,000 square feet in gross floor area, where an additional 10% landscaping shall be provided, and side yard setbacks on interior lot lines shall be no less than 10 feet.

ARTICLE 11: (RMS) RESIDENTIAL MOBILE HOME SUBDIVISION DISTRICT

Section 1. Purpose

This district shall be a minimum of 2.5 acres in size and is intended to provide an alternative to conventional housing by permitting low to medium density mobile home development on privately owned or rented lots in subdivisions designed for such development.

Section 2. Use Regulations

A. Permitted Uses in the RMS district are as follows:

1. Any use permitted in the R-l District.
2. Independent Manufactured/Mobile homes with a minimum size requirement: (40' x 8' with or without permanent foundation on individual lots).
3. Manufactured Homes (as defined by the New Mexico Manufactured Housing Act).

B. Special Uses in the RMS district are as follows:

1. Any special use permitted in the R-l District.

Section 3. Area, Setback, and Height Requirements

In the RMS district, the following requirements shall apply:

Minimum Unit Size	Minimum Lot Size	Required Front Yard	Required Front Yard	Required Rear Yard	Required Side Yard	Required Street Side Yard	Maximum Height of Structures and Signs
		Local Street	Collector or Arterial Street		Interior Corner 1 / 2 stories	Local/Collector or Arterial Street	
40' x 8'	4,500 S.F.	20	25	20	5 / 10	20 / 25	35

Section 4. General Standards

Manufactured/Independent Mobile Homes shall be installed according to the requirements contained in the most current New Mexico Manufactured Housing Act.

ARTICLE 12: (MHC) MANUFACTURED/MOBILE HOME COMMUNITY DISTRICT

Section 1. Purpose

Previous known as Residential Mobile Home Parks(RMP).The purpose of the Manufactured / Mobile Home Community (MHC) District is to provide minimum standards for residential development, to insure that each new or enlarged community provides necessary infrastructure, facilities, adequate home space area, and setbacks, and to provide other requirements for the public safety, health, and general welfare.

Section 2. Use Regulations

A. Permitted Use in the MHC District.

1. Manufactured Homes greater than 32' in length and 8' in width.
2. Temporary buildings and mobile homes to be used incidental to construction work and to be removed upon completion or abandonment of the construction work.
3. Those uses customarily associated with a MHC that are essential to its operation and maintenance, such as but not limited to, manager office or maintenance building, etc.
4. Accessory structures.

B. Special Use. Special uses in the MHC district are not permitted.

Section 3. Site Development Requirements

In the MHC District, the following requirements shall apply to all buildings and structures, unless otherwise specified in this Ordinance.

- A. MHC Site Area. A MHC shall not be less than 5 acres in size and shall be so dimensioned as to facilitate efficient design and management. A MHC may be developed in phases, provided that each phase conforms in all respects with the overall MHC development plan. The development plan must meet City of Roswell Drainage and Flood Control Ordinance. Occupancy shall not be permitted until all infrastructures, facilities, and improvements are installed and operational for that phase of development.
- B. No dependent mobile home shall be occupied in any MHC unless the community provides sanitary facilities and a service building containing toilet and bath facilities meeting the requirements of all governmental agencies.

Section 4. Area, Setback, and Height Requirements

Minimum Unit Size	Minimum Space per unit	Yard Setback from the Street	Building setback from other property lines.	Spacing: Side to Side And End to End	Attached or Detached Accessory: Separation between Structures	Detached Accessory Structure: Setback from side and/or rear space lines.	Maximum Height of Structures and Signs
	40' Width						
32' x 8'	4,000 S.F.	35'	20'	20'	10'	5'	35'

Section 5. General Standards and Requirements

A community development plan shall be submitted to the Planning and Zoning Office in accordance with the procedures established in this ordinance and meeting the following standards and requirements before the issuance of a building permit.

- A. Development Plan. Plans shall be drawn to scale on an 18"x 24" reproducible sheet. The following additional information shall also be shown:
1. A detailed ALTA/ACSM Land Title Survey of the proposed MHC area provided by a Registered Licensed Surveyor.
 2. Name of the proposed MHC and name and address of the property owner and/or developer.
 3. The location and width of all proposed right-of-way, easements, and required building setback lines.
 4. The locations, dimensions, and area of all proposed or existing lots, home spaces.
 5. Identification of the use of any lot or space (single or multi-section units) with consecutive numbering.
 6. The location of any proposed accessory structures such as decks, open or enclosed carports, garages, storage sheds, or items of a similar nature, which are subordinate and serve a principal structure or use.
 7. Plot plan shall show the existing contours and proposed finish grade contours or elevations for the entire development. Existing contours for the adjacent property and streets shall be shown to the extent required to indicate the existence and solution of drainage problems. Contour intervals shall be selected with regards to the relative slope of the land, but in no event exceed one foot.
 8. The applicant shall provide the City of Roswell four sets of the Development Plan at the time of application. Upon final approval the applicant shall furnish the City with two sets of the Development Plan for recording purposes.
- B. Site Conditions. Conditions of soil, ground water, drainage, and topography shall not create hazards to the property or occupants. Development of the site shall not create a public nuisance.
- C. Fencing, screening and landscaping. The MHC shall place either a solid screen fence or wall made of brick, masonry, stone, or wood, no less than six feet in height; or an irrigated and maintained landscaped fence planted with a density equaling the opacity and height of a solid fence or wall; or any combination thereof at all perimeter lot lines of the park. Landscaping shall be provided in accordance with this ordinance.
- D. Access to the Site. Direct vehicular access to the park shall be provided by means of an abutting collector or arterial street. Direct vehicular access shall not be provided nor allowed through an alley or easement.
- E. Design of Driveway Entrance and Exits. Entrances and exits shall be designed for safe and convenient movement of traffic into and out of the park, and to minimize marginal friction with movement of traffic on adjacent streets. A minimum of two access points shall be provided and all traffic into and out of the park shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended, and radii of curbs and pavement at intersections shall be a minimum of 25 feet to facilitate easy turning movements for vehicles with trailers attached. No object shall obscure the view of an approaching driver in the right lane of the street. No entrance or exit shall be located closer than 40 feet from any street intersection, or 10 feet from the radius point, whichever is more.
- F. Internal Streets. Streets shall be privately owned and maintained and provided in the park where necessary to allow safe, convenient access to all spaces and facilities used by occupants.
- G. Street Alignment and Gradient. Street alignment and gradient shall be properly adapted to topography for safe movement of traffic anticipated and to control surface and ground water.
- H. Street Surfacing and Maintenance. As specified in the latest adopted City of Roswell Public Works Specification Ordinance.
- I. Street Widths. Streets shall be of adequate width to accommodate the anticipated parking and traffic load and in all cases shall meet the following minimum size standards:

1. 12 feet per moving lane.
 2. 9 feet per on-street parallel parking lane, where provided.
 3. 5 feet additional for pedestrian use per side for sidewalks.
 4. Streets widths at access points where traffic enters or leaves the park shall be of sufficient size to permit free movement to or from the stream of traffic on the adjacent public streets and no parking shall be permitted which in any way interferes with such free movement.
- J. Parking Spaces. Two off-street parking spaces per lot plus one additional off-street parking space per every three lots for guest parking, delivery, or service vehicles. Standard parking space dimensions shall be 9' x 18'.
- K. Manufactured/Mobile Homes. Manufactured/Mobile Homes shall be installed according to the requirements of the current New Mexico Manufactured Housing Act and manufacture's instructions.
- L. Exterior Lighting. All exterior lighting shall comply with the State of New Mexico's Night Sky Act.
- M. Type of Residential Occupancy. No home space shall be rented and/or leased for any use other than residential.
- N. Management Offices and Common Facilities. The structure(s) containing the management office and other common facilities shall be conveniently located for the uses intended. Consolidation of management, laundry, recreation, and other common facilities in a single building and location is acceptable in the single meet the requirements of the current Uniform Building Code and a City of Roswell building permit must be obtained prior to construction.
- O. Recreational areas. Not less than 5% of the park area shall be devoted to recreational areas.

ARTICLE 13: (RVP) RECREATIONAL VEHICLE PARKS AND CAMPGROUND DISTRICT

Section 1. Purpose

Enforce minimum standards for travel trailer and recreational vehicle parks and primitive campgrounds to promote the public health, safety, and welfare, establishing requirements for the design, construction, alteration, extension, and maintenance of a RVP and related utilities and facilities.

Section 2. Use Regulations

A. Permitted Use in the RVP District.

1. Recreational vehicles and travel trailers.
2. Temporary buildings to be used incidental to construction work and to be removed upon completion or abandonment of construction.
3. Those uses customarily associated with a RVP that are essential to its operation and maintenance, such as but not limited to, manager office or maintenance building.

B. Special Use. Special uses in the RVP District are not permitted.

Section 3. Site Development Requirements

In the RVP District, the following requirements shall apply to all buildings and structures, unless otherwise specified in this Ordinance.

- A. RVP site area. A RVP shall not be less than 2.5 acres in size and shall be so dimensioned as to facilitate efficient design and management. Occupancy shall not be permitted until all infrastructures, facilities, and improvements are installed.

Section 4. Area, Setback, and Height Requirements

Minimum Space per unit	Building setback from all property lines which are adjacent to public streets.		Building setback from all other property lines.	Minimum Spacing between permanent buildings:	Maximum Height
25' Width	Local	Collector / Arterial		Side to Side And End to End	
1,250 S.F.	20'	35'	20'	20'	35'

Section 5. General Standards and Requirements

A development plan shall be submitted to the Planning and Zoning Office in accordance with the procedures established in this ordinance and meeting the following standards and requirements before the issuance of a building permit.

- A. Development Plan. Plans shall be drawn to scale on an 18"x 24" reproducible sheet. The following additional information shall also be shown:
1. A detailed ALTA/ACSM Land Title Survey of the proposed RVP area provided by a Registered Licensed Surveyor.

2. Name of the proposed RVP and name and address of the property owner and/or developer.
 3. The location and width of all proposed right-of-way, easements, and required building setback lines.
 4. The locations, dimensions, and area of all proposed or existing lots, home spaces.
 5. Identification of the use of any lot or space (single or multi-section units) with consecutive numbering.
 6. The location of any proposed accessory structures such as decks, open or enclosed carports, garages, storage sheds, or items of a similar nature, which are subordinate and serve a principal structure or use, located on the home space.
 7. The applicant shall provide the City of Roswell four sets of the Development Plan at the time of application. Upon final approval the applicant shall furnish the City with two sets of the Development Plan for recording purposes.
 8. If construction has not begun within one year from the date of approval of the development plan, the approval shall be considered null and void.
- B. Street Surfacing and Maintenance. As specified in the latest adopted City of Roswell Public Works Specification Ordinance.
- C. Fencing, screening and landscaping. A solid screen fence or wall made of brick, masonry, stone, or wood, no less than six feet in height; or an irrigated and maintained landscaped fence planted with a density equaling the opacity and height of a solid fence or wall; or any combination thereof at all perimeter lot lines of the park. Landscaping shall be provided in accordance with this ordinance.
- D. Access to the Site. Direct vehicular access to the park shall be provided by means of an abutting collector or arterial street. Direct vehicular access shall not be provided through an alley or easement.
- E. Design of Driveway Entrance and Exits. Entrances and exits shall be designed for safe and convenient movement of traffic into and out of the park, and to minimize marginal friction with movement of traffic on adjacent streets. A minimum of two access points shall be provided and all traffic into and out of the park shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended, and radii of curbs and pavement at intersections shall be a minimum of 25 feet to facilitate easy turning movements for vehicles with trailers attached. No object shall obscure the view of an approaching driver in the right lane of the street. No entrance or exit shall be located closer than 40 feet from any street intersection, or 10 feet from the radius point, whichever is more.
- F. Internal Streets. Streets shall be privately owned and maintained and provided in the park where necessary to allow safe, convenient access to all spaces and facilities used by occupants.
- G. Street Alignment and Gradient. Street alignment and gradient shall be properly adapted to topography for safe movement of traffic anticipated and to control surface and ground water.
- H. Street Widths. Streets shall be of adequate width to accommodate the anticipated parking and traffic load, shall comply with the latest adopted City-Public Works Specification Standards Ordinance, and in all cases shall meet the following minimum size standards:
1. 12 feet per moving lane.
 2. 9 feet per on-street parallel parking lane, where provided.
 3. 5 feet additional for pedestrian use per side for sidewalks.
 4. Streets widths at access points where traffic enters or leaves the park shall be of sufficient size to permit free movement to or from the stream of traffic on the adjacent public streets and no parking shall be permitted which in any way interferes with such free movement.
- J. Parking Spaces. One hard-pack, off-street parking space per lot. Parking spaces shall be designed as a drive-through space to eliminate backing of vehicles. No loading or maneuvering shall be permitted on any public street, sidewalk, right-of-way, or public grounds.
- K. Management Offices and Common Facilities. Buildings(s) containing the management office, recreational facilities, toilets, showers, and other common facilities shall be conveniently located for the uses intended.

Consolidation of all facilities into a single building and location is acceptable, and must meet the requirements of the current Uniform Building Code. A City of Roswell building permit must be obtained prior to construction.

L. Disposal of Wastewater, Sewage, and Trash. No unit shall dispose of wastewater, sewage or trash except in approved facilities provided by management for that purpose. All disposal areas shall be clearly marked and kept clean by management.

M. Sanitary Stations.

1. Sufficient facilities shall be provided at sanitary stations for the sole purpose of removing and disposing of waste from all holding tanks, in a clean, efficient, and convenient manner.
2. Each sanitary station shall consist of a drainage basin constructed of impervious material, and containing a disposal hatch and self-closing cover and related working facilities.
3. Sanitary stations shall be located no less than fifty feet from any space or other residential area. Such facilities shall be screened from other activities by visual barriers such as a fence, wall, or natural growth.
4. The disposal hatch of sanitary station units shall be connected to the park sewage disposal system. Related facilities required to wash holding tanks and the general area of the sanitary station shall be connected to the park water supply system.

N. Minimum Required Toilet Facilities. Two toilets, two sinks, and two bathing facilities shall be required in each facility, men and women, whether dependent or independent units. The following schedule is for dependent units. Urinals shall be acceptable for no more than one-third of the toilets required in the men's facilities.

No. of Dependent Trailer Spaces	Toilets	Sinks	Bathing Stalls
6-10	4	2	2
11-20	6	2	2
21-30	8	4	4
31-55	10	4	4
56-80	12	4	4
81-105	14	4	4

O. Cooking Shelters, Barbecue Pits, and Fireplaces. Shall be so located, constructed, maintained, and used to minimize fire hazards and smoke nuisance both on and off the property. No open fire shall be permitted except in approved facilities. No open fire shall be left unattended and all open fires shall be extinguished before occupants of spaces retire or leave the area. No fuel or material which emits dense smoke or objectionable odors shall be used or burned.

P. Spaces for Occupancy. RVP spaces in travel trailer parks may only be used by travel trailers, equivalent facilities on or towed by vehicles, tents, or other short-term housing. Spaces shall be for short-term rental only, for a period not to exceed 30 consecutive calendar days. The wheels of a travel trailer shall not be removed except temporarily for repairs. Jacks or stabilizers may be placed under travel trailer to prevent movement while the trailer is parked and occupied.

ARTICLE 14: LOCATION OF MOBILE HOMES, TRAVEL TRAILERS, RECREATIONAL, AND/OR OVERSIZE VEHICLES OUTSIDE OF APPROVED DISTRICTS.

The above stated units shall not be parked, used for storage, or as a dwelling on any public right-of-way or other public place or on any occupied or vacant property except in approved areas as provided in this Ordinance. In all cases, the unit shall comply with the regulations specified in the Uniform Building Code for the fire zone in which it is to be placed.

Section 1. Use Regulations

- A. Permitted Use. Emergency or temporary stopping or parking is permitted on public right-of-way for no longer than 72 hours, subject to any further prohibitions, regulations, or limitations imposed by other traffic and parking regulations and ordinances for that street, alley, or highway.
- B. Conditional Use Permit. Parking of a travel trailer, recreational vehicle, or boat in the required front or side yard is permitted with a Conditional Use Permit. A Conditional Use application shall be completed and submitted in accordance with Article 3, Section 1. and shall include the VIN number, make/model, year, insurance, and external dimensions. A Conditional Use Permit is only good for the vehicle described in the application and for the location stated in the required Site Plan. Conditional Use Permits are non transferable.

Section 2. Site Restrictions

- A. A travel trailer, recreational vehicle, boat, or oversized vehicle (*unit*) may be stored on the premises of any lot having a principal structure with the following restrictions:
 - 1. The unit is parked in an accessory structure that meets all yard setbacks.
 - 2. The unit may not be parked within the required five foot rear and/or side yard setback or within the required front yard setback.
 - 3. The unit cannot be used for storage for anything not associated with the unit's intended use.
- B. A travel trailer, recreational vehicle, or oversized vehicle (*unit*) may be occupied on a residential lot having a principle structure with the following restrictions:
 - 1. The unit is designed for occupancy and is parked within the residential lot for no more than 10 days with and no more than 3 occupancies per calendar year.
 - 2. The unit shall not discharge any litter, sewage effluent, or other matter except into sanitary facilities designed to dispose of such materials.
 - 3. The unit shall be parked as close to perpendicular as practical to the front curb, at least 11 feet from the curb, and not extend over the public sidewalk.
 - 4. The unit shall not be permanently connected to sewer/water lines, or electricity.
- C. A travel trailer, recreational vehicle, or oversized vehicle (*unit*) may be stored on an adjacent vacant lot provided the following conditions are met:
 - 1. The unit's owner owns the vacant lot and occupies a dwelling on a lot contiguous to the vacant lot.
 - 2. The unit is parked in compliance with the required yard setbacks for that residential district.
 - 3. May not be occupied or used as a storage unit.
- D. A mobile home, travel trailer, or oversize vehicle designed for occupancy may be used on a vacant lot as a temporary dwelling unit, with connections to any or all utilities during the construction of a permanent dwelling unit, or in the event that the principal residential or business structure is damaged or destroyed, provided the use is limited to a maximum period of six months commencing from the date of issuance of the building permit required for the construction of the structure and issued by the City Building Inspector.

- E. A mobile home, travel trailer, or oversize designed for occupancy may be used for office work only while a new structure is under construction on the same lot.
- F. Institutions which are publicly owned, operated, and maintained may utilize one mobile home on the premises as a residence for a watchman or caretaker and his immediate family.
- G. Oversized commercial trucks or trailers shall not be parked or stored in residential districts.

ARTICLE 15: C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

Section 1. Purpose

This district is intended to provide for retail and personal service types of uses of a limited nature for the consumer population of the neighborhoods in which they are located and is not intended for those types of uses that will either attract the consumer population of the entire community, attract large volumes of traffic, or have an appearance and performance that may be detrimental to the neighborhoods in which they are located.

Section 2. Use Regulations

A. Permitted Uses in the C-1 district are as follows:

1. Any use permitted in the R-3 and R-4 Districts, except single family detached and/or two family attached dwellings.
2. Accessory uses (with a principal structure)
3. Barber / Beauty shops/Day Spas
4. Bed & Breakfast (5 units max. includes owner)
5. Boarding or lodging homes
6. Child care centers
7. Drive-in banks and tellers
8. Drugstores/Food stores/markets
9. Convenience stores not exceeding 10,000 square feet in gross floor area
10. Retail Florists
11. Laundries/dry cleaning
12. Libraries and other public facilities
13. Museums and art galleries
14. Nursing/convalescent/group care homes
15. Professional office not exceeding 10,000 square feet in gross floor area
16. Recreational buildings./community centers
17. Music/dance/trade schools
18. Any other use that meets the intent and purpose of this Article and is similar and comparable to those uses listed above.

B. Special Uses in the C-1 district are as follows:

1. Greenhouses or florist
2. Automobile service stations
3. Public utility/service/television companies
4. Professional offices (15,000 S.F. Maximum with an additional 5% landscaping).
5. Parking lots, as a principal use

ARTICLE 16: C-2 COMMUNITY COMMERCIAL DISTRICT

Section 1. Purpose

This district is intended to provide for a wide variety of retail, personal service, wholesale office, and other general service types of uses for the consumer population of the entire community and, because of their heavy traffic generating characteristics, ability to stay open 24 hours per day and potentially detrimental appearance and performance, are located on the periphery of residential areas along collector and arterial street facilities.

Section 2. Use Regulations

A. Permitted Uses in the C-2 district are as follows:

1. Any use permitted in the C-1 District
2. Amusement parks
3. Athletic clubs /Gyms
4. Auditoriums/ Banquet halls/Convention/Exhibition Centers
5. Banks/Financial institutions
6. Hospitality Establishments (Example: hotels and motels)
7. Liquor Service and Stores
8. Lodges, Clubs, Fraternal, Religious (No gun clubs)
9. Commercial Retail/Service stores
10. Rental Stores and Self Storage Units
11. Professional Offices
12. Funeral parlors/ Crematorium
13. Golf courses
14. Animal hospitals, clinics, and kennels
15. Medical facilities /offices / centers
16. Newspaper and/or Magazine offices
17. Private or public parking lots/garages/decks
18. Government offices
19. Public or private utility/Service/radio/TV/cable
20. Restaurants/food/drink/lounges/liquor
21. Stadiums and arenas
22. Theaters, indoor
23. Warehouses as accessory uses
24. Auto repair with temporary outside storage utilizing no more than 20% of net area of the lot.
25. Carnivals, circuses or menageries; shall be located on a paved or hard pack surface and shall not occupying more than 10% of the required parking spaces for that location or business.
26. Mobile vendors; shall be located on a paved surface and shall not occupying more than 10% of the required parking spaces for that location or business.
27. Off site sales of merchandise, such as but not limited to vehicles and furniture; shall be located on a paved surface and shall not occupying more than 10% of the required parking spaces for that location or business.
28. Any other use that meets the intent and purpose of this Article and is similar and comparable to those uses listed above.

B. Special Uses in the C-2 district are as follows:

- | | |
|---|--------------------------------------|
| 1. Any special use in the C-1 District | 2. Airports/heliports/landing fields |
| 3. Bottling works | 4. Bus stations and terminals |
| 5. Gun clubs with indoor firing range | 6. Outdoor theaters, drive-ins |
| 7. Outside storage as a principal use | 8. Parcel delivery/mail order |
| 9. Penal/Correctional institutions | 10. Light welding and fabrication |
| 11. Outside storage containing a screen fence | |

ARTICLE 17: C-3 DOWNTOWN BUSINESS DISTRICT

Section 1. Purpose

This district is intended to provide for retail, personal service, wholesale, office, and other general service types of uses for the consumer population of the entire community in a centrally located and contained high density setting.

Section 2. Use Regulations

A. Permitted Uses in the C-3 district are as follows:

1. Athletic clubs /Gyms
2. Auditoriums/ Banquet halls/Convention/Exhibition Centers
3. Banks/Financial institutions
4. Hospitality Establishments (Example: hotels and motels)
5. Liquor Service and Stores
6. Clubs, Lodges, Fraternal, Religious (No gun clubs)
7. Commercial Retail/Service stores (No vehicle retail stores)
8. Professional Offices
9. Medical facilities /offices / centers
10. Newspaper and/or Magazine offices
11. Private or public parking lots/garages/decks
12. Government offices
13. Public or private utility/Service/radio/TV/cable
14. Restaurants/food/drink/lounges/liquor
15. Stadiums and arenas
16. Theaters, indoor
17. High density multi-family residential units.
18. Carnivals, circuses, or menageries located on a paved or hard pack gravel surface
19. Any other use that meets the intent and purpose of this Article and is similar and comparable to those uses listed above, including a mixture of two or more permitted uses.

B. Special Uses in the C-3 district are as follows:

1. Bus stations and terminals
2. Parcel delivery/mail order
3. Heliports

ARTICLE 18: C-4 WESTSIDE BUSINESS DISTRICT

Section 1. Purpose, Intent & Boundaries

- A. This district is intended to provide for a wide variety of retail, personal service, wholesale office, and other general service types of uses for the consumer population of the entire community and, because of the heavy traffic generating characteristics and potentially detrimental appearance and performance, is located on the periphery of residential areas on the north and south sides of West Second Street (U.S. Hwy 70/380).

Section 2. Use Regulations

A. Permitted Uses.

Any use permitted in the C-2 District.

B. Special Uses

Any special use permitted in the C-2 District.

Section 3. Site Access Restrictions

All commercial lots in the C-4 District shall conform to the following site access restrictions to deter encroachment of commercial traffic into residential areas and promote a harmonious shift from commercially zoned districts to the residentially zoned districts.

- A. Commercial lots abutting an alley with a residentially zoned district on the opposite side of that alley are required to have a permanent and solid screen fence or wall, 6 feet in height, along the entire property line abutting the alley and residentially zoned district. This fence or wall shall be constructed to prevent vehicular or pedestrian access onto the commercial lot from the alley or residentially zoned district. Alley access to commercial lots in the C-4 District will not be permitted in order to promote a harmonious shift from commercial to residential, reduce traffic and improve public safety.
- B. Commercial lots abutting a local street with a residentially zoned district on the opposite side of that street will have limited access to the commercial lot from the local street. A fence or wall shall be constructed to limit vehicular or pedestrian access onto the commercial lot from the local street or residentially zoned district. Local street access in the C-4 District will be limited in order to promote a harmonious shift from commercial to residential, reduce traffic and improve safety.

Section 4. Setback Requirements

A. **Front Yard Setback.**

1. Properties facing onto West Second Street shall be no less than 40 feet from the designated front or address property line.
2. Properties facing onto all other Streets shall be no less than 25 feet from the designated front or address property line.

B. **Rear Yard Setback** shall be no less than five (5) feet from the rear property line when abutting the alley.

C. **Side Yard Setback** is not required unless the side property line abuts a residential zoning district. Where a side property line abuts a residential district, the minimum side yard setback shall be 20% of the lot width or 35 feet, whichever is less.

D. **Street Side Yard Setback**

1. Properties abutting West Second Street shall be no less than 40 feet from the designated property line.
2. Properties abutting all other Streets shall be no less than 25 feet from the property line.

Section 5. Parking Requirements

- A. The minimum number of parking spaces required for any given use in the C-4 District will be as outlined in the Zoning Ordinance for all uses, less 10% percent, to accommodate the smaller commercial lots on West Second Street in the C-4 District.
- B. On-street parking is allowed in the right-of-way along West Second Street wherever parking lanes have been provided and indicated by the NMDOT. These dedicated on-street parking areas, wherever legal, can be used to count towards the minimum parking requirements for each lot as outlined in this section and in the Zoning Ordinance for all uses.

Section 6. Loading Requirements

Commercial developments in the C-4 District are not required to designate a specific site for loading or unloading; however, adequate access must be provided to allow a means for delivery trucks to enter and exit the property without creating a safety hazard for patrons or vehicular traffic on West Second Street, U.S. Highway 70/380. Access from the alley is not permitted and access from local streets is restricted.

Section 7. Fences, Walls, Accessory Buildings, and other Obstructions

- A. Fences and walls shall be placed at the property lines adjacent to or abutting the alley and may have a pedestrian gate to allow for access to the alley from the property. Dumpsters shall be wholly enclosed with a 6 foot high screen fence accessible from the alley. Fences and walls may not exceed 8 feet in height.
- B. Accessory structures on a commercial lot in the C-4 District shall be attached to, and on the side of the principal structure with the rear wall of the structure at the rear property line of the lot. The accessory building shall not extend beyond the limits of the principal structure to the front and the side yard setbacks. Accessory structures shall not be placed in existing required parking spaces and/or landscape areas.
- C. All structures and other obstructions that require space or that obstruct the free-flow of pedestrian, handicapped, or vehicular traffic shall be included on the construction plans submitted for a building permit. These include, but are not limited to: fire hydrants, landscaping, signs, accessory structures, and utility poles.
- D. Where the fence or wall is constructed out of conventional materials, barbed wire is only used at the top of the fence or wall for security purposes then no more than three strands of barbed wire may be placed at the top of the fence. **Fences shall not consist of barbed wire alone. Concertina wire is not permitted for commercial/industrial security fencing purposes.**

Section 8. Sanitation Dumpsters, Grease Bin, and Enclosure Requirements

- A. All commercial properties in the C-4 District will have their sanitation and/or grease removed from the alley ways.
- B. All dumpsters (and grease bins if required) shall be located in their own separate enclosures. If both dumpsters and grease bins are required for a site, they must each be located in a single enclosure with a concrete masonry unit (CMU) wall separating the two. At no time will the dumpster and grease bin be permitted inside a single enclosure together.
- C. Pipe bollards shall be located inside each separate enclosure between the dumpster and/or grease bin and the rear wall of the enclosure to prevent damage to the rear wall from the routine sanitation pick-up services.
- D. Enclosures shall be constructed with the rear wall of the enclosure at the rear property boundary line, with the opening of the enclosure(s) facing towards the alley way. Should a different location be requested, it is the developer's responsibility to get this location pre-approved by the Director of Sanitation before a Building Permit can be issued.

ARTICLE 19: I-1 LIGHT INDUSTRIAL DISTRICT

Section 1. Purpose

This district is intended to provide for light manufacturing, fabrication, assembly/disassembly, processing, and treatment activities conducted in a manner not detrimental to the rest of the community by reason of emission or creation of noise, vibration, smoke, dust or other particulates, toxic or noxious materials, odors, fire, explosive hazards, glare, or heat.

Section 2. Use Regulations

A. Permitted Uses in the I-1 district are as follows:

1. Any use permitted in the C-2 districts.
2. Any primary use which includes light manufacturing, fabrication, assembly/disassembly, processing or treatment of goods and products.
3. Bottling works.
4. Bus stations and terminals.
5. Food and grain processing, canning, and storage, excluding meat, fish, and poultry.
6. Gun clubs containing an indoor firing range.
7. Machinery and service for farm, tractor and trailer rigs,, and well drilling equipment.
8. Outdoor theaters, drive-in.
9. Parcel delivery, mail order services, and motor freight terminals.
10. Wholesale distribution centers.
11. Warehouses.
12. Light welding.
13. Any other use meeting the intent of this Article and comparable with the above.

B. Special Uses in the I-1 district are as follows:

1. Airports, heliports, and aircraft landing fields.
2. Hospitals, sanitariums, and group care residences.
3. Livestock feed and sales yards.
4. Oil and gas wells and pumping stations.
5. Penal, correctional, and other institutions necessitating restraint of patients.
6. Saw mills or other similar types of mills like pulp mills.
7. Recycling activities in a structure with outside storage as a secondary use. Outside storage to be screened with an 8 foot high solid wall except for access openings, with a maximum opening of sixteen 16 feet with a solid gate(s).
8. Recycling center with outside storage as a principal use, such as a junk yards.

ARTICLE 20: I-2 HEAVY INDUSTRIAL DISTRICT

Section 1. Purpose

This district is intended to provide for a wide range of industrial activities including heavy manufacturing, fabrication, assembly/disassembly, processing, and treatment activities conducted in a manner not detrimental to the rest of the community by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic or noxious materials odors, fire, explosive hazards, glare, or heat.

Section 2. Use Regulations

A. Permitted uses in the I-1 district are as follows:

1. Any use permitted in the I-1 District
2. Any primary use which includes heavy manufacturing, fabrication, assembly, disassembly, processing and/or treatment of goods and products,
3. Food and grain processing, canning, and storage, including meat, fish, and poultry
4. Foundries, iron works, and steel fabricating
5. Livestock feed and sales yards
6. Recycling center with outside storage as a principal use, such as a junk yards.
7. Petroleum products including refining and storage
8. Saw mills and other types of mills
9. Any other use that is similar and comparable to those listed above.

B. Special Uses. In the 1-2 district, special uses are as follows:

1. Any special use in the 1-1 District
2. Landfills
3. Mining, loading, and hauling of sand, gravel, top soil, or other aggregate or minerals, including equipment and buildings or structures for screening, crushing, mixing, washing, storage, or office purposes.
4. Recycling activities with a structure and permanent outside storage. All outside storage shall be screened with a minimum of an 8 foot high solid wall except for access openings, with a maximum opening of 16 feet with a solid gate(s).

ARTICLE 21: (PUD) PLANNED UNIT DEVELOPMENT

Section 1. Purpose

This district allows for more of a mixed use and an alternative to conventional zoning by permitting flexibility and innovation in land use, design, placement of buildings, use of open spaces, circulation facilities, and off-street parking areas to encourage a more creative approach in the utilization of land. This district permits a more efficient, aesthetic, and desirable development characterized by special features of the geography, topography, size, or shape of a particular piece of property while simultaneously providing a compatible and stable environment in harmony with and at substantially the same population density and area coverage of the surrounding area.

Section 2. Use Regulations

The PUD district permits any use or combination of mixed uses allowed in the various residential, commercial, and/or industrial zoning districts established by this Ordinance in accordance with the procedures, requirements, and standards set forth herein.

Section 3. Procedures, Requirements, and Standards

Applications for a PUD district shall meet and follow the same procedures, requirements, and standards as that of a zone change request. In addition, the application for a PUD shall include a development plan that meets the following requirements and standards:

- A. **Ownership.** The tract shall be under unified ownership and shall be planned as a whole. If the tract is to be developed in phases, all phases must be indicated and a schedule shall be provided showing the chronological order in which portions of the tract are to be developed.
- B. **Conformance with the City's Land Use and Thoroughfare Plans.** The development shall conform to the City's Land Use and Thoroughfare Plans for land use, density, streets, and traffic.
- C. **Lot Area Regulations.** A residential PUD or one mixed with commercial and/or industrial uses shall be no smaller than five acres in size. A proposed commercial and/or industrial planned unit development shall be no smaller than two acres in size.
- D. **Density.** In a residential PUD with a variety of housing types, the number of dwelling units allowed per net acre shall be as close to that outlined in the Comprehensive Master Plan for the property's current zoning classification. The maximum density standards may be exceeded if it can be demonstrated that a higher density will not adversely affect public facilities, traffic flows, safety, or the enjoyment of adjacent properties. Open space shall be provided to offset serious or substantial increases in dwelling unit density, if required.
- E. **Setbacks.** Building setbacks for all perimeter property lines in the PUD shall blend well with adjacent property setbacks already developed or as set forth elsewhere in this Ordinance for the current zoning district classification of the property, whichever one blends best.
- F. **Height Restrictions.** Heights of structures shall blend well with adjacent structures already developed or as set forth elsewhere in this ordinance for the height restrictions for the property as currently zoned prior to the approval of the PUD, whichever height restriction is lower.
- H. **Streets, Utilities, Services, and Public Facilities.** Because of the uniqueness of each PUD, the specifications and standards for streets, utilities, services, and public facilities may be different from those normally required in this and other ordinances if it can be demonstrated that such variations will not adversely affect the interests of the general public or City. In addition, the PUD proposal shall illustrate how the streets, utilities, services, public facilities, and traffic circulation will function and serve the PUD as well as adjacent properties.
- I. **Off-Street Parking.** The PUD shall provide the necessary amount of off-street parking spaces and illustrate how such proposed parking will adequately serve the entire development.

- J. Any other information which allows staff to properly assess the request for the PUD district.

Section 4. Building Permit Requirements

- A. Exact development information shall be submitted either with the application for a PUD, or separately at a later time as a whole, or in phases, prior to receiving a Building Permit.
- B. The exact development plan shall be substantially the same as that submitted for the initial PUD request. In addition to the information submitted for the application for a PUD district, the development plan shall include specific details such as, but not limited to: type and placement of buildings/structures; internal building setbacks; building and structure heights; location, number, and operation of off-street parking spaces; street construction, flows, and maintenance standards; traffic circulation; pavement and right-of-way widths; utility and facility type, location, and service; easement type, location and service; size and location of open space areas; dwelling unit densities; and any other information which staff may require to properly assess and approve the request.

Section 5. Decisions and Conditions

- A. **Approval.** The PUD request shall be approved after a public hearing by the Planning and Zoning Commission, where additional conditions may be imposed to insure the public interest, safety, and welfare and where the development plan has been presented to meet the general and/or specific uses, placement of buildings and structures, amount and location of open space areas, street and utility locations and performances, off-street parking areas, and other items essential to the development's operation, performance, and ability to blend well with adjacent properties.
- B. **Building Permit.** A building permit shall be issued only if the building or structure, for which the permit is to be issued, is in conformance with the approved development plan and only if all site and facility improvements are in place for the placement of the building or structure.

ARTICLE 22: AREA, SETBACK & HEIGHT REQUIREMENTS

Section 1. Generally

Every building, structure and use hereafter constructed or established shall meet the following area, setback, and height requirements in addition to requirements set forth elsewhere in this Ordinances.

Section 2. Residential Districts

The minimum lot size and principal structure location requirements for residential uses in the R-S through R-4 zoning districts are as follows:

Zoning District	Use	Minimum Lot Size	SETBACK REQUIREMENTS (in feet)					Maximum Height
			Required Front Yard Local Street	Collector or Arterial Street	Required Rear Yard	Required Side Yard Interior or 1 story/2 Story	Corner Local/Collector Arterial Street	
R-S Rural Suburban	Single Family Residence	2.5 acres	25	35 *	20	5 / 10	25 / 35	35
R – 1 Residential	Single Family Residence	6,000 S.F.	25	35 *	20	5 / 10	25 / 35	35
R – 2 Residential	Single Family Residence	4,500 S.F.	25	25	20	5 / 10	25 / 25	35
	Duplex A	4,000 S.F. Per Unit	25	25	20	10 / 10	25 / 25	35
R – 3 Residential	Single Family Residence A	4,500 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
	Single Family Residence B	4,500 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
	Duplex A	4,000 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
R – 4 Residential	Multi Family Residence A	2,000 S.F. Per Unit	20	25	20	10 / 10	20 / 25	35
	Single Family Residence A	4,500 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
	Single Family Residence B	4,500 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
	Duplex A	4,000 S.F. Per Unit	20	25	20	5 / 10	20 / 25	35
	Multi Family Residence A	1,500 S.F. Per Unit	20	25	20	10 / 10	20 / 25	35

*On lots subdivided and recorded after the effective date of this ordinance, including Summary Plats, Replats, and Revisions of a P.U.D. If otherwise, the requirements in effect at the time the lots were recorded shall apply.

A. All dwelling units on a single lot held under one owner.

B. Structures with a common wall parallel with and on a side property line shall have a five foot side yard setback on the opposite side lot line, except where the structure has common walls on both side lot lines. Structures sharing a common wall shall be constructed simultaneously.

C. The required 10' side yard setback for a residential two-story structure shall be measured from that portion of the building, as determined by the City Building Inspector, to the nearest side property line. Half-story containing independent living quarters or apartment shall be counted as a full story.

Section 3. Commercial and Industrial Districts

All commercial and industrial buildings and/or structures in the C-1, C-2, I-1, and I-2 Districts shall meet the following setbacks, screening, and height requirements.

A. Front Yard Setback.

The minimum setback shall be 40 feet or the setback line established by an existing principal building on an adjacent lot within the same block, whichever is less.

B. Side Yard Setback.

1. A side yard setback shall not be required, except where the side lot line abuts a residential zoning district or an adjacent street.
2. Where the interior side lot line abuts a residential zoning district, the minimum side yard setback shall be 20% of the lot width or 35 feet, whichever is less. The lot shall be effectively screened by placing a solid fence or wall no less than six feet in height on the structure side of the lot line, made of brick, masonry, stone, wood, or an irrigated and maintained landscaped area, planted at a density equal to the opacity and height of a solid fence or wall or any combination thereof.
3. Where the side yard is on the street side of a corner lot, the minimum side yard setback shall be 30 feet or the setback line established by an existing principal building on an adjacent lot within the same block, whichever is less.

C. Rear Yard Setback.

1. The minimum setback shall not be less than 15 feet, except where the rear lot line abuts a residential zoning district.
2. Where the rear lot line abuts a residential zoning district the minimum rear yard setback shall then be 20% of the lot depth or 35 feet, whichever is less. The lot shall be effectively screened by placing a solid fence or wall no less than six feet in height on the structure side of the lot line, made of brick, masonry, stone, wood, or an irrigated and maintained landscaped area, planted at a density equal to the opacity and height of a solid fence or wall or any combination thereof.

D. Building Height Restrictions.

1. In the C-1 district, a building or structure shall not exceed 35 feet in height.
3. In the C-2, C-4, I-1, and I-2 districts, a building shall not exceed 45 feet in height without approval by the City of Roswell Fire Department.
4. In the C-3 district, a building's or structure's height shall be subject to approval by the City of Roswell Fire Department.

E. Structure Height Restrictions.

Antennas, monuments, towers, church spires, and/or other such structures not intended for residential dwelling, shall be reviewed on an individual by City Staff through the Building Permit, Plan Review process to determine if the structure's height poses any threat to the health, safety, welfare, and/or aesthetics of the adjacent properties or the community as a whole.

ARTICLE 23: BUILDING & PERFORMANCE STANDARDS

Section 1. Purpose

The purpose of this article is to establish general building and performance standards to preserve and promote an attractive, well-planned and stable urban environment.

Section 2. Access to Public Streets

Except in the PUD district and as otherwise provided for in this and other ordinances, every residential dwelling unit structure constructed or erected after the effective date of this Ordinance shall be located on a lot which has access to or abuts, as a minimum, a local public street.

Section 3. Buildings Per Lot

- A. In residentially zoned districts, every single family detached dwelling, mobile home, two family attached dwelling, or multiple family dwellings used for rental purposes, constructed or erected after the effective date of this Ordinance, shall be located on one duly subdivided and recorded lot and there shall not be more than one principal building on one lot; Excepting in the R-3 and R-4 districts.
- B. When two or more lots, each of which lacks adequate area and dimension alone to qualify for a permitted use, are contiguous and are held under one ownership, they may be used as one zoning lot for such use.

Section 4. Accessory Uses

Residential zoned districts, accessory uses shall meet the following requirements:

- A. Except when used for agricultural purposes in the R-S district, an accessory building shall be compatible with the principal building that it serves and shall not be constructed prior to the construction of the principal building.
- B. An accessory structure, including but not limited to, storage sheds, towers, or antennas, shall not be closer than 50 feet from the front property line or 20 feet from the side street property line for corner lots, nor be nearer than 10 feet to, the principal building or structure that it serves or any other structure on that lot. A minimum five foot setback is required on the rear yard property line for residential lots that do not abut a dedicated platted public right of way such as an alleyway.
- C. Accessory structures shall not occupy more than 40% of the required rear yard area, nor have more floor area than the principal structure it serves, nor exceed the height of the principal building it serves.
- D. A detached carport, Ramada, or similar accessory structure shall not be located within the setbacks established and permitted for a principal building in the property's zoning district.
- D. All runoff or drainage from an accessory structure shall remain on the lot that it serves and may not encroach on an abutting lot.
- E. Tanks used for storage of fuel used for heating shall be located in the rear yard and shall not be closer than 10 feet to the principle building or structure that it serves, or any other structure, and 5 feet from the side property line.

Commercial and Industrial zoned districts accessory uses shall meet the following requirements:

- A. An accessory building shall be compatible with the principal building that it serves and shall not be constructed prior to the construction of the principal building.

- B. An accessory structure, including but not limited to, a carport or storage shed, shall not be closer to the front property line than principle building or structure that it serves.

Section 5. Exceptions to Required Yards

A required yard space shall remain open and unobstructed, except as follows:

- A. Eaves, overhangs, ornamental features, and other common projections normally associated with residential dwellings may project no more than 18 inches into required yard spaces.
- B. Open stairways, balconies, and chimneys may project no more than 5 feet into required yard.
- C. A non-enclosed porch or terrace may project no more than 5 feet into the required front yard spaces.
- D. A non-enclosed porch or patio may project no more than 10 feet into the required rear yard spaces.
- E. Where a lot is adjacent to a lot with a principal building that projects into the required front yard setback and if both lots are in the same block on the same side of the street, then the required front yard setback of the lot may be that as established by the adjacent principal building setback.

Section 6. Exceptions to Height Requirements

Except in the C-3 and C-4 districts, the following are exceptions to the height requirements.

- A. Public service buildings, hospitals, institutions, or schools shall not exceed 60 feet in height.
- B. Churches, temples, and their spires shall not exceed 75 feet in height.
- C. In residentially zoned areas, privately-owned, non-commercial radio towers, antennas, monuments, steeples, chimneys, or other similar structures shall not exceed 60 feet in height.

Section 7. Off-Street Parking and Loading Requirements

- A. **Location of Off-Street Parking Spaces.** All required off-street parking spaces shall be located within the property lines of the same lot that accommodates the building or use being served, except that where an increase in the number of spaces is required by a change or enlargement of a use, or where such spaces are provided collectively and are to be used jointly or shared by two or more uses as provided herein, the required spaces may be located not more than two hundred (200) feet from the property line if the lot accommodates the use being served. If such is the case, a written agreement assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney, and shall be filed with the application for a building permit.
- B. **Shared Off-Street Parking.** Up to fifty (50) percent of the off-street parking spaces provided for other uses may be utilized by those uses seeking additional off-street parking spaces, provided that the two uses are not normally open, used, or operated during the same hours. The parking spaces must be within the distance requirement set forth herein.
- C. **Rules for Computing the Number of Off-Street Parking Spaces.** The number of required off-street parking spaces to be provided for each use shall be determined as set forth herein.
 - 1. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature, as determined by the Planning and Zoning Staff.
 - 2. Except as otherwise indicated, the number of parking spaces shall be determined by the net floor area, which for the purpose of this section, shall mean that floor area of the building accessible to or devoted to use by the customer or patron. Net floor area shall not include those areas used for storage, cooking, stairwells, etc.
 - 3. Where fractional spaces result, the parking spaces required shall be constructed to be the nearest whole

number.

4. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the change or enlargement.

D. **Minimum Standards for the number of Off-Street Parking Spaces.** The New Mexico's "Accessible Parking Standards and Enforcement Act" shall be used to determine the number of handicapped parking spaces necessary. For all zoning districts, except C-3 or C-4, the minimum number of off-street parking spaces required shall be as follows:

1. **Amusement parks**- 1 per 3 persons in designed capacity, plus 2 per 3 employees during peak hours.
2. **Athletic clubs /Gyms**- 1 per 200 square feet of net floor area.
3. **Bowling alley**: 2 spaces per lane, plus additional spaces as required for ancillary uses.
4. **Business, professional, medical, or public office building**: 1 per 200 square feet of net floor area.
5. **Community center, library, museum, private club, or lodge**: 1 per 100 square feet of net floor area.
6. **Convention, Banquet halls, Auditoriums, Exhibition Centers**: 1 per 100 square feet of net floor area.
7. **Child care facilities**: 1 per 3 children, plus 1 for each employee, during peak hours.
8. **Financial Services**: 1 per 250 square feet of net floor area.
9. **Furniture/household equipment or appliance store**: 1 per 300 square feet of net floor area.
10. **Hospital**: 1 per 2 beds plus 1 for every 2 employee during peak shift.
11. **Hotel, motel**: 1 per room plus additional spaces as required for ancillary uses.
12. **Industrial or manufacturing establishment**: 1 per employee during peak shift plus 1 for each company vehicle used for business purposes.
13. **Motor vehicle or machinery sales**: 1 per 300 square feet of net floor area.
14. **Outside sales areas**: where items are displayed for sale and are accessible to patron, the display area shall be paved as specified for a parking lot.
15. **Religious Assembly**: 1 per 3 in designed capacity.
16. **Residential dwelling**: 2 per dwelling unit.
17. **Restaurants, night club, café, or similar activity**: 1 per 200 square feet of net floor area.
18. **Retail sales**: 1 for every 200 square feet of net floor area.
19. **Retirement/convalescent, sanitarium, or group care facility**: 1 per 2 beds plus 1 per each employee, during peak hours.
20. **Theater, stadium, or auditorium**: 1 per 4 seats, plus 2 per 3 employees during peak hours.
21. **Shopping center**: 1 per 300 square feet of net floor area, including mall areas.
22. **Schools**: Elementary and Junior high = 3 per classroom; high schools, trade schools, colleges and universities = 1 for every 2 students enrolled.
23. **Warehouses/storage establishment or motor freight terminal**: 1 per employee during peak shift plus 1 per each company vehicle used for business purposes.

E. **Minimum Standards for parking lots.** Parking lots shall be designed to City standards for efficient access, traffic flow, and drive lanes and shall be approved by the City Engineer.

F. **Loading Zones.** For all zoning districts where loading and unloading is needed, except the C-3 and C-4 districts, a designated off-street Loading Zone shall be provided so as not to obstruct parking, pedestrian or vehicular traffic flows on-site or to adjacent properties, streets, and alleys.

G. **Construction and maintenance of Off-street Parking and Loading Zones.** All parking and Loading Zones shall be constructed with either 4 inches of base coarse and 2 inches of asphalt or a minimum of 6 inches of concrete.

1. Each parking space shall be a minimum of 9' x 18' with circulation drives of adequate width to make each stall accessible.
2. Each Loading Zone shall be a minimum of 12' x 35' with a minimum height clearance of 15 feet and it

shall not reduce the number of required parking spaces.

Section 8. Fences, Walls, and Other Obstructions

- A. Except as set forth elsewhere in this Ordinance and in other Ordinances, fences and walls shall not exceed 8 feet in height. Fences over 6 feet in height require a Building Permit from the Building Inspection Department.
- B. Fences shall **not** consist of barbed wire, except if the fence is constructed with conventional materials, then no more than 3 strands of barbed wire may be placed at the top of the fence for security purposes. Such exception is only allowed in the commercial and industrial districts.
- C. Fences may not be located within the public right-of-way of streets and/or alley-ways.
- D. Fences located within any sight-triangle of the principal ingress or egress of a lot or public right-of-way may not exceed 3 feet in height from natural ground.

Section 9. Outside Storage

All outside storage of materials, not on display for direct sale or rental to the consumer, shall be enclosed and effectively screened from adjacent streets and properties by placing a solid fence or wall, made of brick, masonry, stone, or wood at the property line not less than 6 feet in height or the height of the materials being screened, whichever is greater.

Section 10. Lighting

- A. All lighting, glare, and/or general illumination shall not be cast upon properties that are adjacent to the site from which the lighting, glare, and/or general illumination originates.
- B. No lighting, glare, and/or general illumination which flashes, revolves, or otherwise resembles a traffic control signal or in any way creates a hazard for passing traffic shall be permitted.
- C. All exterior lighting shall conform to the New Mexico Night Skies Act.

Section 11. Landscaping

To promote and preserve an aesthetically pleasing setting, reduce water erosion and runoff and improve the overall quality of the environment, the owners of all buildings and parking lots hereinafter erected or constructed in the R-3 through 1-2 zoning districts, except C-3 and C-4, shall provide and maintain landscaping in the amount and locations as set forth herein.

- A. **Definition.** Landscaping shall mean trees with a combination of either shrubs or ground cover. Trees are mandatory for landscaping to count towards the total required landscaping.
 - 1. Deciduous or evergreen trees shall be placed throughout the required landscaped area, spaced no more than 40 feet on-center. Trees shall have a minimum 2" caliper trunk at the time of planting, which is measured 4 inches above the soil line in the container or 4 inches above the soil line on a balled-and-bur lapped tree. Trees planted in turf shall have a 3 inch deep by 4 foot radius mulch ring. The material shall be an organic type of bark mulch. The bark shall not be placed within 3 inches of the base of the trunk to inhibit pathogens from entering the tree.
 - 2. Shrubs shall be a minimum of 2 feet in height at the time of planting and shall be no more than 8 feet apart at the time of planting. Trees and shrubs shall be planted in accordance with *ANSI A300 Part 6 (Transplanting) American National Standard Institute*, which is available through the City Park's Superintendent and/or Urban Forrester.

3. Where trees are planted in parking lot islands, the islands shall be a minimum of 6 feet wide by 6 feet long. The soil contained in the islands shall be of quality topsoil with a minimum of 20% organic material. Engineered fill is not acceptable.
4. Grass and/or low-lying green plants shall be planted to provide at least 90% coverage of the ground area at maturity.
5. Mulch, bark, asphalt, concrete, gravel, or other decorative or non-decorative aggregate are not permitted as ground cover for the required landscaping purposes.
6. Materials. All planting materials shall be selected for drought tolerance, water conservation, and adaptability to the climate in the Roswell area.

B. Location and area requirements.

1. To determine the required area to be landscaped, take the entire area to be developed and subtract the total area being used by all structures and required parking; this shall be called the remaining area. 12% of the remaining area is the area that must be landscaped to meet the landscape requirement. Exception: in the C-3 and C-4 Districts an 8% of the remaining area, as determined above, is to be landscaped.
2. The required landscaped areas shall be clearly visible from bordering streets but not within the sight triangle for public safety. Up to one-half of the total required landscaping and its required irrigation may be located within the public right-of-way with prior written approval from the City Engineer and/or the New Mexico Department of Transportation (NMDOT), whichever has jurisdiction over said right-of-way. This area may be limited for reasons of safety, practicality, and/or accessibility. Landscaping located in the sight triangle at intersections shall be in accordance with City Codes.
3. Landscaping for Phased developments will be determined based on the square footage of the area to be developed in each phase.
4. If a lot is being partially developed, only apply the formula outlined in #1 above to the total area to be developed. The remaining area can remain vacant and/or undeveloped.
5. Landscaped areas shall not be used for temporary or permanent retail sales, product or vehicular displays, signage, or any kind of storage.

C. Landscape screen fence. *This section only includes screen fencing made from living plants.*

1. A screen fence shall have the opacity of a solid fence to a height of at least six feet.
2. A screen fence shall be irrigated and maintained continuously.
3. A screen fence shall be planted so that it will have the opacity of a solid fence at the time of maturity. In no instance shall plants that cannot survive in this close proximity to other plants be permitted in the screen fence.
4. A screen fence shall not extend onto sidewalks, drive lanes, or public rights-of-ways.
5. A screen fence can account for up to 2% of the total 12% required landscaping.
6. A screen fence shall not be changed, modified, reduced, or deleted at any time without approval of the Planning and Zoning Department.

D. Other location criteria.

Up to half of the required 12% landscaped area and its required irrigation may be located within the public rights-of-way with approval from the City Engineer or the NMDOT to ensure that safety, practicality and accessibility are not hindered.

E. Landscape plan review. A landscape plan shall include the type and location of all living plants and irrigation system components. This plan shall be submitted in conjunction with the site plan during the building permit

application and shall be reviewed and approved by the Park's Superintendent and/or Urban Forrester and Planning and Zoning staff in accordance with this ordinance. Changes to the landscaping during construction will require approval prior to planting.

- F. **Installation.** In order to receive a certificate of occupancy the irrigation system and all landscaping must be in place in accordance with the approved landscape plan. Only 1 Temporary Certificate of Occupancy (maximum of 60 days) may be granted to complete the landscaping.
- G. **Maintenance.** It is the property owner's responsibility to maintain all landscaped areas, including public rights-of-way and sight triangles in a healthy, neat, trimmed, clean, and weed-free condition, whether or not negligence or damage to the landscaping was the cause of the owner. Dead plant material shall be replaced with new plant material in accordance with this article within 60 days of receiving written notice from city staff.
- H. Approved landscaping shall not be changed, modified, reduced, or removed at any time without approval of the Planning and Zoning staff. When landscaping is removed for construction or any other reason, it shall be replanted within 180 days after being removed.
- I. Landscaped areas shall not be used for retail sales, temporary signs or any kind of temporary or permanent storage. Landscaped areas shall not be used for any type of vehicular parking. This includes, but is not limited to, the parking of carts, ATVs, motorcycles, cars, trucks, utility vehicles, recreational vehicles, trailers, boats and airplanes.

Section 12. Site Specific Drainage Control Requirements

- A. For a residential-commercial, commercial, or industrial development, as required by the City Engineer or the NMDOT, the developer shall provide a drainage site plan which shows the site elevations for the existing and developed conditions and how the storm water shall be detained on the property. This sheet may also require the calculations and design for the detention structure as designed by a professional engineer registered in New Mexico.
- B. The amount of storm water that shall be detained and the rate at which it can be released shall be in accordance with the standards and procedures as required by the City Engineer or the NMDOT, and as adopted and required by the City in this and other ordinances.

Section 13. Site Specific Traffic analysis Requirements

For a residential-commercial, commercial, or industrial development, as required by the City Engineer or the NMDOT, the developer shall provide a traffic impact analysis for developments which require in excess of 12 parking spaces. If required by the City Engineer, the traffic impact analysis shall be prepared by a professional engineer registered in New Mexico.

ARTICLE 24: SPECIAL FLOOD HAZARD AREAS

Section 1. Purpose

The purpose of this article is to provide for the regulation of building and performance standards to promote attractive, well-planned, and stable urban conditions within special flood hazard areas.

Section 2. Finished Floor Elevation

- A. The finished floor elevation for all new construction on properties which lie within a special flood hazard area shall comply with the elevation indicated for that property on the most current FEMA Flood Insurance Rate Map for the City of Roswell.
- B. Reconstruction, alteration, or additions to structures on properties which lie within a special flood hazard area, which are valued at more than fifty (50) percent of the value of the structure shall require flood proofing of the structure to at least the elevation indicated for that property on the most current FEMA Flood Insurance Rate Map.
- C. Additions or enlargements to structures on properties which lie within a special flood hazard area, which are valued at less than fifty (50) percent of the existing structures shall have the finished floor elevation, of the addition or enlargement, at or above the elevation indicated for that property on the most current FEMA Flood Insurance Rate Map.
- D. Restoration to structures on properties which lie within a special flood hazard area which is valued at fifty (50) percent or more of the value of the structure shall be flood proofed to at least the elevation indicated for that property on the most current FEMA Flood Insurance Rate Map.

ARTICLE 25: TELECOMMUNICATIONS

Section 1. Purpose and Legislative Intent

The purpose and intent of this Article is to minimize the negative impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, protect the health, safety, and welfare of the citizens of Roswell, encourage the use of and assure the improved appearance and functionality of existing facilities and insure that all new facilities are constructed using stealth technologies and designed to accommodate future growth.

Section 2. Exclusions; The Following Shall Be Exempt

- A. The fire, police, department of transportation or other public service facilities owned and operated by the local, county, state, or federal government.
- B. Any facilities expressly exempt for the City's citing, building, and permitting authority.
- C. Over-the-Air reception devices including the reception antennas for direct broadcast satellites (DBS), multi-channel, multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS), and other customer-end antennas that receive and transmit fixed wireless signals and are primarily used for reception.
- D. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, and other similar non-commercial Telecommunications.
- E. FCC licensed amateur radio facilities require an Administrative Approval and are exempt from all aspects except reasonable screening, setback, placement, construction, tower height, and health and safety standards in accordance with New Mexico state law.
- F. Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g {Wi-Fi and Bluetooth}) where the facility does not require a new tower.

Section 3. Permit Application Process and Other Requirements

- A. Applicants for a Telecommunications Permit shall comply with the requirements set forth in this Article. The City Council designates the Planning and Zoning Department as the Administrator to whom applications for a Telecommunications Permit must be made, and that is authorized to review, analyze, evaluate, and make decisions with respect to granting, not granting, or revoking Permits. The City may at its discretion designate the Planning and Zoning Committee to accept, review, analyze, evaluate, and make recommendations to the City Council with respect to the granting, not granting, or revoking of Permits that are appealed to the City Council.
- B. The applicant shall complete the following steps, in order, to assist the administrator in expediting the completion of the process:
 - 1. Obtain and review this Article and discuss any questions regarding the process or its requirements with the Administrator.
 - 2. Determine the best potential location for the Telecommunications Facility, taking into consideration the City's defined priorities that meet the applicant's requirements for service. The application process will require an explanation for a selected location not using the highest priority available to the applicant. The City's priorities (listed from highest to lowest) are:
 - a. On existing Towers or structures without increasing their height.
 - b. On City-owned properties.
 - c. On properties zoned for Industrial use.
 - d. On properties zoned for Commercial use.
 - e. On properties zoned for Residential use.

3. Attend the pre-application meeting to address issues to help expedite the review and permitting process. A pre-application meeting shall also include a site visit. The pre-application meeting will determine the types of applications being made, define information required to support the proposed location, and define the specific application requirements for what is needed for review and consideration by the City. Requirements will vary based on the specific location, type of facility selected, and its Potential impact to the City and its citizens.
 4. Deposit funds sufficient to reimburse the City for all reasonable costs of expert consultation in connection with the review of the application and construction or modification of the site. Funds will be deposited into an escrow account controlled by the City. The City's consultant will invoice the City as needed for reviewing the application or performing construction inspections. Funds remaining in the escrow account after issuance of the Certificate of Compliance will be returned to the applicant. The initial amount of the escrow deposit and the minimum balance to be maintained throughout the project varies based on the type of project as defined below:
 - a. New towers require an initial deposit of \$8,500 (prior to a pre-application meeting) and maintaining a balance of \$2,500 throughout the project.
 - b. Co-locations or material modifications on existing structures without increasing the height requires an initial deposit of \$5,000 (prior to a pre-application meeting) and maintaining a balance of \$1,500 throughout the project.
 - c. Applicants applying for a permit for multiple (3 or more) projects concurrently may negotiate a lower initial escrow amount since many aspects of concurrent projects may be addressed at the same time.
 - d. Should an escrow account fall below prescribed minimums and the City requests additional funding, all work will stop until the escrow account is replenished.
 5. Submit 3 copies of applications to the Administrator. Incomplete applications will not be accepted.
 6. Submit a report inventorying existing suitable Towers and structures within 2 miles of the proposed new Tower, unless the applicant can show that some other distance is more reasonable and demonstrate why an existing structure cannot be used.
- C. The City and its consultant will review the application to verify if it is complete and that it meets the requirements of this Article. Based on the review of the application the City may:
1. Approve, approve with conditions or deny a Telecommunications Permit. Its decision shall be in writing and shall be supported by evidence contained in a written record. The burden of proof for the granting of the permit shall always be upon the applicant.
 2. Refer application to the Planning and Zoning Committee for recommendations.
 3. Based on the agreed upon location for a new tower, if it is located in a zone other than an industrial zone, or if any variance is required, this application may require a public hearing through the Planning and Zoning Commission.
- D. The City's approval or denial of an application shall be provided to the applicant in writing within 10 business days of the decision.
- E. Anyone can appeal the decision of staff or the Planning and Zoning Commission to the Planning and Zoning Committee by submitting written notification to the administrator. The appeal will be heard and considered at the next Planning and Zoning Committee meeting. The appeal must be submitted by noon on the second business day following the Commission meeting or within 30 calendar days after the decision by staff.
- F. Limitations. A proposed rezoning, special use, or variance which has been denied by the Commission, Committee, and/or City Council on a particular tract of land for a particular purpose cannot again be applied for within 1 year from the date of the denial, unless the new request is determined to be substantially different from the original zoning request (i.e., an application for a different but not necessarily more restrictive zoning district, use, distance, area, etc.)
- G. An Applicant that receives an approved Permit may proceed to the construction phase of the project. Since the application fee includes the Building Permit for the tower only, any additional support buildings will require a separate Building Permit and fee. The City will conduct its normal building inspection process during

construction.

- H. When the applicant completes construction of the project, the applicant shall notify the administrator of the need for a final inspection.
- I. When the City has verified that the site is constructed in accordance with the application, meets all the requirements of the Ordinance, and that the applicant has paid all monies due to the City, the City will issue a Certificate of Occupancy to the applicant that allows operational use of the site.

Section 4. Permit Application Contents and Other Requirements

- A. All applications shall contain a demonstration that the facility will be sited so as to be the least visually intrusive as reasonably possible.
- B. All applications for the construction or installation of new Wireless Telecommunications Facilities shall contain the information hereinafter set forth.
- C. The application requirements may vary based on the type of facility and its location. Final determination of the specific information to be included with each application will be defined in the pre-application meeting, but will generally follow the established guidelines as set forth below:
 - 1. An application to co-locate on an existing structure or modify an existing structure without increasing its height shall include: The names, addresses, and phone numbers of the person preparing application; the applicant; including legal name; the Telecommunications facility owner; the property owner; the building contractors; the postal address and legal description of the property and its zoning designation; written verification that the facility complies with State and Federal rules and regulations; a copy of the State license and the City of Roswell Business License; and documentation that verifies the ownership of the site, and all lease or sublease agreements.
 - 2. The applicant shall furnish a Visual Impact Assessment, which shall include a "Zone of Visibility Map" to determine locations from which the Tower may be seen and pictorial "before and after" representations of proposed facility.
 - 3. A Certified site plan which shall include: The location, size, and height of all structures on the property to scale; landscaping, irrigation, and fencing; a description of the proposed Tower and Antenna(s) for aesthetics; grounding; parking and turn around facilities; signage; and, demonstrate how it shall effectively screen from view the base and all related structures.
 - 4. A copy of the geotechnical sub-surface soils investigation, evaluation report, drainage report and foundation recommendation for a proposed or existing tower site.
 - 5. Certification that the Telecommunications Facility, foundation, and attachments are designed and will be constructed to meet all local structural requirements for loads, including wind and ice loads.
 - 6. Verification that proposed facility complies with current FCC RF emissions guidelines.
 - 7. Documentation that satisfies the Liability Insurance requirements.
 - 8. Documentation that satisfies the Performance Bond requirements.
 - 9. Applications to co-locate on or modify an existing structure where an increase in height is requested will require the above information and: Documentation demonstrating the need for the proposed height of the Facility; propagation studies of the proposed site and all adjoining proposed and existing sites; certified structural drawings verifying structure can handle the load of additional antennas and/or structure; supporting documents showing actual intended transmission and the maximum effective radiated power of the Antenna(s); and equipment specification sheets for the proposed radio, combiner, isolator, and antennas planned for the proposed and adjoining sites.
 - 10. An application to install a new tower or facility will include the above information and: The number, type, and design of the Tower(s) and Antenna(s) proposed and the basis for the calculations of the Tower's capacity to accommodate multiple users; and the applicant shall be required to submit documentation demonstrating its meaningful efforts to secure shared use of existing Tower(s) or other structures within the City. Copies of written requests and responses for shared use shall be provided to the City in the application.

Section 5. Visibility of Wireless Telecommunications Facilities

- A. Telecommunications facilities shall not be lighted or marked, unless required by law. If lighting is required, applicant shall provide a detailed plan for sufficient lighting as inoffensive as permissible under State and Federal regulations. Applicant shall also be in compliance with the New Mexico Night Skies Act.
- B. Towers shall be galvanized and/or painted with rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained for the life of the Tower.

Section 6. Setback Requirements

Stand alone Wireless Telecommunications Facilities shall be no closer to any property line than the total height of the completed unit, plus ten percent (10%). Should the structure collapse for any reason, it shall not be capable of falling onto an adjacent property or structure. The height is measured from the pre-existing grade to the highest point of the structure.

Section 7. Security of Wireless Telecommunications Facilities

All Wireless Telecommunications Facilities and Antennas shall be located, fenced, or otherwise secured in a manner that prevents unauthorized access.

Section 8. Signage

- A. Telecommunications Facilities shall contain a sign no larger than 4 square feet to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size shall also be installed to contain the site identification number and emergency phone number(s). The sign shall be on the equipment shelter or cabinet and be visible from the access point of the site. On tower sites, an FCC registration site shall also be present. The signs shall not be lighted, unless required by law, rule, or regulation. No other signage, including advertising, shall be permitted.
- B. The applicant or future owner of the site shall update the site identification number and emergency phone numbers of the Wireless Telecommunications Facility as displayed on the required sign within one month of any sale, assignment, or transfer.

Section 9. Parameters of Telecommunications Permits

- A. Such Permit shall not be assigned, transferred, or conveyed without written notification to and approval from the City within 6 months.
- B. Such Permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for violation of the conditions and provisions of the Telecommunications Permit or for a material violation of this ordinance after prior written notice to the holder of the Telecommunications Permit and the applicant is given an opportunity to cure the same.

Section 10. Application Fee

At the time a person submits an application for a Telecommunications Permit for a new Tower or requires an increase in height to an existing Tower, such applicant shall pay a non-refundable application fee of \$3,000.00 to the City. If the application is for a Telecommunications Permit for co-locating on an existing Tower or other suitable structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be \$1,000.00.

Section 11. Liability Insurance

- A. A holder of a Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public

liability insurance for personal injuries, death, and property damage and umbrella insurance coverage for the duration of the Permit in amounts as set forth below:

1. Commercial General Liability covering personal injuries, death, and property damage: \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate.
 2. Automobile Coverage: \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate.
 3. Workers Compensation and Disability: Statutory Amounts
- B. The Commercial General liability insurance policy shall specifically include the City and its officers, employees, agents, and consultants as additional named insured's.
- C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a "Best's" rating of at least A.
- D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days prior written notice of the cancellation of the insurance.
- E. Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance that such policies are to renew or replace.
- F. The insured shall provide the city a copy of the policies/certificates before construction, but in no case later than 15 days after the granting of the Telecommunications Permit.

Section 12. Default and/or Revocation

If Telecommunications Facilities are repaired, rebuilt, placed, moved, relocated, modified, or maintained in a way not in compliance with this Ordinance or the Telecommunications Permit, then the City shall notify the Permit holder in writing of such violation. After receiving written notification of the violation, a Permit holder has 60 days to cure such violations. The City shall consider extensions to the cure period as necessary upon the Permit holder demonstrating that despite its good faith efforts, such default cannot be reasonably cured within the provided time. A Permit holder still in violation after the expiration of the cure period may be considered in default, subject to fines as set forth in this Ordinance, and the Permit is subject to revocation.

Section 13. Temporary Communications on Wheels (COW)

- A. In the event a COW becomes inoperable due to force majeure or Acts of God, it must be removed from the site within 30 days of becoming inoperable.
- B. In regards to a special event where a COW is used, it must be removed from the site within 48 hours of the conclusion of the event.
- C. In the event of an emergency or natural disaster which renders other forms of communication nonviable, thus necessitating a COW, the City and the Telecommunications provider shall agree to special terms and conditions as needed by the City and the Telecommunications provider.

Section 14. Relief

Any applicant desiring relief, waiver, or exemption from any requirement of this Ordinance may request such at the pre-application meeting. The burden of proving the need for the request lies solely with the applicant. The applicant shall bear all costs to the City in considering the request. No request shall be approved unless the applicant provides convincing evidence that the request will have no significant affect on the health, safety, and welfare of the City or its residents.

Section 15. Procedures for Removal

- A. The City may require the removal of Telecommunications Facilities when: such items with a permit have been abandoned for a period exceeding 90 consecutive days or a total of 180 calendar days. The item shall be removed within 90 days; the permitted items fall into such disrepair that it creates a health or safety hazard as

determined pursuant to a review by a New Mexico licensed engineer; an item has been located, constructed or modified without a permit, or in a manner inconsistent with the approved permit requirements; a certificate holder has failed to comply with the liability insurance requirements; and, such item is not repaired within 60 days, or longer as necessary upon the permit holder demonstrating that despite good faith efforts, such disrepair could not be responsibly cured within the provided time; and, the Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Permit, or any other necessary authorization.

- B. If the City makes such a determination as noted in subsection (A) above, then the City shall notify the Permit holder within 48 hours that said items are to be removed, the City may approve an interim temporary use agreement/permit, such as to enable the sale of the item. After receiving notice of such decision, the permit holder shall have 90 calendar days to cure the violation. The City shall extend such cure period as necessary upon the Permit holder demonstrating that despite good faith efforts, such default cannot be reasonably cured.
- C. If the permit holder cannot cure the violation within the cure period, the permit holder shall dismantle and remove such item, and any associated structures, from the site and restore the site to as close to its original condition as possible, reasonable wear and tear excepted, within 90 days of the expiration of the cure period.
- D. If the item is not removed or substantial progress has not been made to remove it within 90 days of the permit holder receiving notice, then the City may order officials or representatives of the City to remove the item at the sole expense of the owner or Permit holder.
- E. If the City removes, or causes to be removed, the item, and the owner does not claim and remove it from the site to a lawful location within 120 days, then the City may take steps to declare the item abandoned, and sell it and its components.
- F. Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the item for no more than 90 days, during which time a suitable plan for removal, conversion or re-location of the affected item shall be developed by the holder of the Permit, subject to the approval of the City, and an agreement to such plan shall be executed the holder of the Permit and the City. If such a plan is not developed, approved, and executed within the 90 day time period, then the City may take possession of and dispose of the affected item in the manner provided in this Section.
- G. If the City determines the item is a hazardous, creates an emergency situation, or adversely affects public safety, the City may remove or cause to be removed the item after 3 days written notice to the Permit holder or the holder of the Certificate of Compliance.

ARTICLE 26: RENEWABLE/ALTERNATIVE ENERGY SYSTEM

Section 1. Purpose and Intent

The purpose and intent of this ordinance is to allow for the placement of Renewable/ Alternative Energy Systems (RAES) to create alternative energy, while creating the smallest amount of nuisance possible to the general public. The boundary limits wherein this article is enforceable include any properties or structures located within the City Limits of Roswell, NM, as defined by the Official City Boundary map, as maintained by the Planning & Zoning Department.

Section 2. Permit Application Process

All Applicants for a RAES Permit shall comply with the requirements of this ordinance. City Council designates the Planning and Zoning Department as the Administrator to whom applications must be made, and that is authorized to review, analyze, evaluate, and make decisions with respect to granting, not granting, or revoking RAES Permits. The City may at its discretion designate the Planning and Zoning Council Committee to accept, review, analyze, evaluate, and make recommendations to City Council regarding the granting, not granting, or revoking of an RAES Permit on cases that are appealed to City Council.

The applicant for a RAES Permit shall complete the following steps, in order, to assist City staff in expediting the completion of the application process:

- A. The applicant shall submit 4 copies of the application to the administrator for review. Incomplete applications may be rejected. The administrator will review the application to determine if it is complete. If the application is deemed incomplete, the applicant will be provided written notice. If the application is deemed complete, the administrator will notify the applicant of the administrator's action with regard to the application. Actions which may be taken by the administrator with respect to the completed application include: Approve, approve with conditions, request additional information, or deny an RAES Permit. The administrator will provide its decision in writing to the address on the application. The burden of proof for the granting of the permit shall always be upon the Applicant; and/or, refer the application to the Planning & Zoning Council Committee for further recommendations if applicant is dissatisfied with staff's decision; and/or, should any variance be required, this application shall require a public hearing through the Planning & Zoning Commission.
- B. Anyone can appeal the decision of the administrator to the Planning and Zoning Committee by submitting written notification to the administrator, stating the desire to appeal the decision. The appeal will be heard and considered at the next regularly scheduled meeting. The appeal must be submitted within 5 business days of being notified of administrator's decision. Written notice sent to address on the application shall be deemed sufficient for the purposes of this Ordinance.
- C. Limitations. A proposed variance which has been denied by the Planning and Zoning Commission, Committee and/or City Council on a particular tract of land for a particular purpose cannot again be applied for within 1 year from the date of the denial, unless the new request is determined to be substantially different from the original request (i.e. an application for a different but not necessarily more restrictive zoning district, use, distance, area, etc.)
- D. Applicants receiving approved Permits may begin construction. Since the permit is for the RAES only, additional support/accessory structures will require a separate Building Permit and fee. The City will conduct the usual building inspection process during construction.
- E. After completing construction, the applicant shall request a final inspection from administrator.
- F. When the City verifies the site was constructed in accordance with the application, and the RAES meets the requirements of this Ordinance and all monies have been paid to the City, the City will issue a Certificate of Compliance that allows operational use of the facility.

Section 3. Notification of Applicant and/or Certificate Holder

It is the responsibility of the permit applicant, permit holder, and/or Certificate of Compliance holder to notify the administrator of all pertinent addresses and address changes that may have taken effect from the date of application, while the RAES is in use. Written notice sent to the last address provided to the administrator by the permit applicant, permit holder, and/or Certificate of Compliance holder shall be deemed sufficient for any purposes set forth in this Ordinance.

Section 4. Permit Application Contents

- A. Applications shall contain documentation, drawings, or descriptions to demonstrate that the RAES is the least intrusive as reasonably possible.
- B. Applications for construction/installation of a new RAES shall contain, but may not be limited to, the information contained herein. Where Certification is called for, such Certification shall bear the signature and seal of a Professional Engineer and/or Architect licensed in New Mexico.
- C. The application requirements may vary based on the type of facility and its location. Final determination of the specific information to be included with each application will be defined by the administrator, but will generally follow the established guidelines as set forth below. Permit applications may include, but not be limited to the following:
 - 1. The name, address, and phone number of the Applicant and Property Owner where the proposed Renewable/Alternative Energy System will be located.
 - 2. The Postal address, legal description, and Zoning designation of the property.
 - 3. A scaled drawing showing the square footage of the property and all lot lines.
 - 4. A written statement verifying the Renewable/Alternative Energy System complies with State and Federal rules and regulations
 - 5. A copy of the system installer's City of Roswell Business license, if pertinent.
 - 6. Documentation that verifies ownership of or the right to occupy the site.
 - 7. The number, type and design of the Renewable/Alternative Energy Systems.
 - 8. Documentation, drawings or descriptions showing how the Renewable/Alternative Energy System will visually impact neighboring properties.
 - 9. A site plan which shall include: Location, size and height of proposed and existing structures; location, size and height of the system(s); landscaping, irrigation, and fencing; warning signage; electrical grounding and junctions to electrical service; and, the administrator can require applicant to have site plan certified in regards to structure or nature.
 - 10. The proposed stealth applications for the RAES for aesthetic purposes.
 - 11. Show how RAES shall be screened from the view from neighboring properties.
 - 12. Certified structural drawings verifying that the RAES foundation and attachments will be constructed to meet structural requirements for loads, including wind and ice.
 - 13. Certified structural drawings and a soils report verifying that the existing structure or soil can handle the live and dead load of the proposed structure.
 - 14. Documentation satisfying Liability Insurance requirements, for Wind Systems only.
 - 15. Documentation demonstrating the need for the proposed height of the RAES.
 - 16. Equipment specification sheets for the proposed system(s).

Section 5. General Building Requirements

- A. The administrator may require the system installer to be a licensed New Mexico contractor, experienced in installing an RAES.
- B. Both the system and all accessory structures shall maximize the use of building materials, colors, and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural

surroundings. This shall include the utilization of stealth or concealment technology as required by the City.

- C. The holder of a Permit granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation, or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity having jurisdiction over the applicant.
- D. The holder of a Permit shall notify the City of any intended modification to the facility and shall apply to the City to modify, relocate or rebuild an RAES.
- E. No artificial lighting of an RAES shall be permitted unless it is required by the Federal Aviation Administration, due to a structure's height.
- F. An RAES shall be constructed to comply with all local, State, and Federal construction building and electrical codes.
- G. An RAES that is to be interconnected with a local electrical utility shall be done in accordance with the New Mexico Public Service Commission and the utility provider's rules and regulations.
- H. The owner of a Wind Energy System shall maintain at all times, proof of a current Liability Insurance policy which covers bodily injury and property damage with limits of at least one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) in the aggregate. Certificates of insurance shall be provided to the City before a Certificate of Compliance can be issued. Certificates should also be made available upon request at any time the Wind Energy System is on the owner's property.
- I. Upon completion of construction, and prior to operating the system, the applicant must call the Administrator to request a final inspection of the system to ensure the system has been installed in accordance with the approved permit.

Section 6. Nuisance Control

A. Measures shall be taken to prevent the following nuisances from disrupting the residential nature and setting of neighborhoods throughout the City. Applicant and owner are responsible for preventing the development of, and correcting any nuisance created by, the RAES which could adversely affect neighboring properties and/or vehicular passersby on local streets. Examples of nuisances include, but are not limited to:

1. **Solar Energy Systems:** Glare from reflections created by the system components onto neighboring properties and vehicular passersby on any local streets; debris off of system components detached by natural forces; visual Impairment of neighboring property views which hinder safety; create a physical obstruction which reduces or eliminates the emergency responders ability to access the permitted property; and the appearance of the system must always remain in good condition.
 2. **Wind Energy Systems:** Audible sound from the system shall not exceed 50 decibels as measured at the exterior property boundaries of the system site; methods for measuring and reporting acoustic emissions from the system shall be equal to or exceed the minimum standards for precision described in AWEA standard 2.1, titled "Procedures for the measurement and reporting of acoustic emissions from wind turbine energy systems, volume I, first tier."; the owner shall minimize shadow flicker onto neighboring properties or vehicular passersby; glare from reflections created by the system components onto neighboring properties and vehicular passersby. Anti-glare paints shall be used on the blades of the system; the owner shall prevent the disruption or loss of radio, telephone, television, internet, or other wireless signals to property owners on neighboring properties. The system owner shall be responsible for mitigating any harm caused by the system; debris off of system components detached by natural forces; Visual Impairment of neighboring property views which hinder safety; create a physical obstruction which reduces or eliminates the emergency responders ability to access the permitted property; and the system must always remain in good condition.
- B. Systems that fall into disrepair and create a nuisance for neighboring properties shall be repaired or shut down within 24 hours of when the nuisance is first reported to the City as a problem. If repairs cannot be administered within 24 hours, the system must be turned "OFF" until such repairs can be made to eliminate the

nuisance.

- C. Systems that are irreparable and no longer functional must be dismantled and removed from the property in accordance with Section 10 below.

Section 7. Safety Precautions

- A. System Protection. Wind Energy Systems shall be constructed to prevent unauthorized persons from climbing onto them. Access to the wind turbines and electrical equipment shall be securely fenced off to prevent unauthorized access, injury, or death from the system components.
- B. Controls and Brakes. All Wind Energy Systems shall be equipped with redundant braking systems. These braking systems shall include aerodynamic over-speed controls which vary the pitch of the blades to slow them down, as well as a fail-safe mechanical braking system, to slow down the rotation speed of the blades at the hub. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
- C. Wind Resistance. Every RAES shall be designed and certified to withstand sustained winds of 90 miles per hour (90 mph). This is in accordance with the Building Code requirements adopted and enforced by the City for wind load requirements for Exposure-C classifications.
- D. Batteries. An RAES containing batteries for any reason shall comply with all local, State, and Federal regulations/guidelines for the safe handling, use, storage and disposal of said batteries.
- E. Clearance. RAES shall be installed on private property, with no part of the system overhanging public rights-of-way. Caution must be taken during the design and planning of the system to ensure no part of the system will interfere with the overhead or underground utilities.
- F. Bottom Sweep of propeller. The tips of propellers from a Wind Energy System at the lowest point in its rotation shall be no closer than 10 feet from the existing grade in all installations.

Section 8. Setback Requirements

A stand alone Wind Energy System shall be no closer to any property line than the total height of the completed unit, plus five feet. Should the structure collapse for any reason, it shall not be capable of falling onto an adjacent property or structure. The height is measured from the pre-existing grade to the highest point of the structure.

Section 9. Height Restrictions

- A. **In a Residential District.** The height of an RAES shall not exceed **35** feet from the pre-existing grade to the highest point of the system, or the height needed to meet the setback requirements as outlined in Section 8 above, whichever is lesser in height.
- B. **In a Commercial District.** The height of an RAES shall not exceed **45** feet from the pre-existing grade to the highest point of the system, or the height needed to meet the setback requirements as outlined in Section 8 above, whichever is lesser in height.
- C. **In an Industrial District.** The height of an RAES shall not exceed the height needed to meet the setback requirements as outlined in Section 8 above.

Section 10. Procedures for Removal

- A. The City may require the removal Renewable/Alternative Energy Systems when: such items with a permit have been abandoned for a period exceeding 90 consecutive days or a total of 180 calendar days. The item shall be removed within 90 days; the permitted items fall into such disrepair that it creates a health or safety hazard as determined pursuant to a review by a New Mexico licensed engineer; an item has been located, constructed or modified without a permit, or in a manner inconsistent with the approved permit requirements; a certificate

holder has failed to comply with the liability insurance requirements; and, such item is not repaired within 60 days, or longer as necessary upon the permit holder demonstrating that despite good faith efforts, such disrepair could not be responsibly cured within the provided time; and the Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Permit, or any other necessary authorization.

- B. If the City makes such a determination as noted in subsection (A) above, then the City shall notify the Permit holder within 48 hours that said items are to be removed, the City may approve an interim temporary use agreement/permit, such as to enable the sale of the item. After receiving notice of such decision, the permit holder shall have 90 calendar days to cure the violation. The City shall extend such cure period as necessary upon the Permit holder demonstrating that despite good faith efforts, such default cannot be reasonably cured.
- C. If the permit holder cannot cure the violation within the cure period, the permit holder shall dismantle and remove such item, and any associated structures, from the site and restore the site to as close to its original condition as possible, reasonable wear and tear excepted, within 90 days of the expiration of the cure period.
- D. If the item is not removed or substantial progress has not been made to remove it within 90 days of the permit holder receiving notice, then the City may order officials or representatives of the City to remove the item at the sole expense of the owner or Permit holder.
- E. If the City removes, or causes to be removed, the item, and the owner does not claim and remove it from the site to a lawful location within 120 days, then the City may take steps to declare the item abandoned, and sell it and its components.
- F. Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the item for no more than 90 days, during which time a suitable plan for removal, conversion or re-location of the affected item shall be developed by the holder of the Permit, subject to the approval of the City, and an agreement to such plan shall be executed the holder of the Permit and the City. If such a plan is not developed, approved, and executed within the 90 day time period, then the City may take possession of and dispose of the affected item in the manner provided in this Section.
- G. If the City determines the item is a hazardous, creates an emergency situation or adversely affects public safety, the City may remove or cause to be removed the item after 3 days written notice to the Permit holder or the holder of the Certificate of Compliance.

ARTICLE 27: SIGNS

Section 1. Statement of Purpose

This code regulates the installation, maintenance and placement of signs to ensure the health, safety, and welfare of motorists and pedestrians along local streets and highways while promoting an aesthetically pleasing landscape in which businesses can advertise their goods and services. Signs constructed or erected along any State or Federal Highway must apply and receive a Sign Permit from the New Mexico Department of Transportation per State Statute.

Section 2. Prohibited Signs

It shall be unlawful for any person(s) to erect or place any of the following signs:

1. Signs located in a residential district advertising a Home Occupation.
2. Signs which resemble official government signs or which could conflict in any way with the proper functioning or line-of-sight of any official traffic control device.
3. Signs which obstruct access or pose a safety hazard to pedestrians or motorists.
4. Signs incorporating any noisy mechanical device (whistles, horns, noise makers, sirens or any other noisy audible devices).
5. Signs located within the Sight Triangle of any property.
6. Signs attached or otherwise affixed in any way to utility poles, light poles, rocks, trees or other natural features that are located in, on, or over public right-of-way and/or any easements.
7. Any flashing and/or continuous scrolling freestanding display signs.

Section 3. Signs Not Requiring A Permit

All signs must comply with the City of Roswell Building Codes. The following signs are allowed in all zoning districts without a building permit and shall be placed in accordance with the requirements noted for each sign listed, if any. These signs must comply with all remaining Sections of this Article, excepting Section 4. Display Surface Area –DSA.

1. Any sign placed by a governmental entity.
2. Construction signs.
3. Directional/information signs.
4. Temporary signs on private residential property.
5. Any sign located within the confines of an enclosed building.
6. Holiday signs.
7. Special event signs. (Temporary signs placed no more than 45 days before the special event and removed 5 days after.)
8. Nameplates.
9. Political signs. (To be removed 5 days after the election.)
10. Real Estate signs. (To be removed 5 days after transaction for real estate closes.)
11. Window signs.
12. Any hand-held sign, symbol or display on any person (Not to exceed 6 Sq. Ft. DSA)

Section 4. Permit Application Requirements

- A. *Signs constructed or erected along any State or Federal Highway must apply and receive a Sign Permit from the New Mexico Department of Transportation (NMDOT) per State Statute. This also includes adhering to all applicable regulations set forth by NMDOT.*

- B. A new sign, relocation of an existing sign, altering the height of a sign or varying the DSA of a sign, *excepting those signs indicated above in Section 3*, shall require a Building Permit with fees as determined by the City Building Inspection Department building code fee schedule.
- C. All electrical work shall be approved by the City Electrical Inspector and performed and/or overseen in the field by a State Licensed Electrical Contractor.
- D. Companies that install, erect, alter, relocate, dismantle or repair signs within Roswell City Limits must possess a current State Contractor's License and a City Business License.
- E. Signs shall be constructed, installed, erected, maintained, and/or repaired in accordance with the current City adopted International Building Code Standards. City staff will determine if the application is complete and will notify the applicant within 5 business days of their decision.
- F. It shall be unlawful to change, modify, or otherwise deviate from the terms and conditions set forth in the original Building Permit application without written approval by the Building Inspector and the Planning and Zoning Department.
- G. It shall be unlawful to alter or modify an on-premise sign into a billboard sign and/or alter or modify a billboard sign into an on-premise sign without complying with this Article.
- H. A request for a Variance must comply with Article 3 of this Ordinance.
- I. Inspections. A foundation, structural, and final inspection by the Building Inspector is required before any sign requiring a building permit shall be issued a C-O from the Building Inspector. Requests for inspections shall be the responsibility of the contractor or sign owner.

Section 5. Maintenance of New and Legal Non-Conforming Signs

- A. Any sign deemed hazardous to the public by the Building Inspector may be removed by the City with reasonable notice to the owner. All costs incurred for de-construction/removal of the sign shall be the responsibility of the owner. Signs shall not list or lean more than 15 degrees from their originally intended position.
- B. Signs shall not have any exposed electrical components. If a sign face is damaged or removed, the electricity to the sign shall be turned "off" until the sign is repaired or replaced.
- C. Signs shall be regularly maintained and kept in good and safe structural condition by the owner.

Section 6. Signs Allowed in Residential Districts

- 1. 1 subdivision identification sign per entrance.
- 2. 1 apartment complex identification sign per entrance.

Section 7. Signs Allowed for Properties with a Special Use Permit in Residential Districts

- 1. 3 wall signs (Per International Building Code Standards).
- 2. 1 on-premise free standing or monument, non-digital sign.

Section 8. Signs Allowed in Commercial/Industrial Districts

- 1. Off- premise outdoor advertising or "Billboard" signs. (C-2, C-4, I-1 & I-2 Districts Only)
- 2. On-premise free standing or monument sign.
- 3. 1 apartment complex identification sign per entrance.

4. Directional and/or Information signs.
5. Canopy and/or Awning Signs
6. Wall Signs.
7. Projecting signs.
8. Marquee signs.
9. Digital or LED signs.
10. On-premise Roof Signs.

Section 9. Sign Setback Requirements

Setbacks shall be measured from the nearest point of the sign to the property line. Location of all necessary property lines shall be shown to scale on the required site plan.

- A. All free-standing signs shall be a minimum of 5 feet from all property lines.
- B. Monument and Pole Covered signs shall be a minimum of 10 feet from all property lines.

Section 10. General Requirements for Sign Placement & Operation

No sign shall be erected or maintained at any location where by reason of its position, working, illumination, shape, symbol, color, form or character, may obstruct, impair, obscure, interfere with the view of or may be confused with any authorized traffic sign, signal or device or interfere with, mislead, confuse or disrupt traffic flow or traffic safety.

A. ON-PREMISE SIGNS:

1. Only one free-standing or monument sign is allowed per lot, except where the street frontage of the lot exceeds 500 linear feet. For those lots, a second free-standing sign shall be permitted, provided there is a minimum distance of 200 feet between the signs. Multiple businesses can be displayed on one monument multi-face sign.
2. Free standing signs shall not exceed 35 feet in height from natural grade to the highest point of the sign and have a minimum clearance of 10 feet above ground from the bottom of the sign to ensure clearance and unobstructed visibility to motorists.
3. On-Premise Signs shall comply with requirements for both Digital, LED, Neon, and/or Motion Display Signs, as well as Billboard Signs.

B. OFF PREMISE OUTDOOR ADVERTISING OR BILLBOARD SIGNS:

1. Non-digital billboard signs shall be separated a minimum of 1,000 feet from each other or a digital billboard sign, along the same side of the same street, measured center-to-center between signs.
2. Digital billboard signs shall be separated a minimum of 2,400 feet from each other.
3. Signs shall be at least 200 feet from the nearest boundary of a residential district. If the width or the depth of the property is less than 200 feet, the sign may be placed no closer to the residential district than $\frac{1}{2}$ of the total dimension of the property in a direction perpendicular to the property line(s) which abut the residentially zoned district.
4. The maximum DSA for any Billboard sign shall not exceed 672 square feet with a maximum length of 60 feet and a maximum width of 25 feet. The sign shall be a maximum height of 45 feet from the highest point of the sign to the ground and have a minimum clearance of 15 feet from the bottom of the sign to the ground to insure unobstructed view for motorists.
5. Each side of a double-faced sign can meet the DSA requirements as permitted in Section 10: B, 4 above,

5. Each side of a double-faced sign can meet the DSA requirements as permitted in Section 10: B, 4 above, with both sides being of equal size and facing in opposite directions, where the interior angle between the 2 display surfaces forms a 'V' and that angle does not exceed 30 degrees.
6. Billboard signs shall not overhang any structure, building, or right-of-way.
7. Cutouts or extensions are not permitted outside of or in excess of the DSA permitted.
8. Digital billboards shall comply with requirements for both Digital, LED, Neon, and/or Motion Display Signs as well as Billboard Signs.

C. DIGITAL, LED, NEON, and/or MOTION DISPLAY SIGNS:

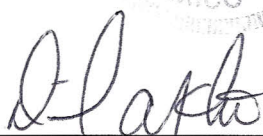
1. Signs shall be at least 200 feet from the nearest boundary of a residentially zoned district. If the width or the depth of the property is less than 200 feet, the sign may be placed no closer to the residential district than 1/2 of the total dimension of the property in a direction perpendicular to the property line(s) which abut the residentially zoned district.
2. No sign shall display an illuminative brightness exceeding 1,000 NIT's during the night beginning 1/2 hour before sunset and 10,000 NIT's during daylight beginning 1/2 hour after sunrise as published by the U.S. Naval Observatory.
3. No sign shall resemble or simulate any official traffic control device, sign, signal, or light.
4. Signs shall be equipped to freeze the sign to static mode if a malfunction occurs to prevent flashing.
5. Signs shall be equipped to automatically adjust the display intensity according to the natural ambient light conditions.
6. Digital signs displaying multiple static messages shall have a minimum dwell time of 8 seconds and a maximum frame effect time of 2 seconds between static messages.
7. With consent from the sign owner, the City may request emergency information to be displayed on a digital billboard signs such as: Amber Alerts and/or any other information deemed an emergency by any governmental entity.

Effective Date: This Ordinance shall be effective 5 days after its adoption.

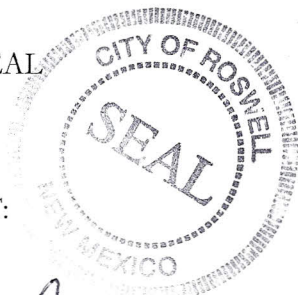
PASSED, ADOPTED, SIGNED, AND APPROVED on this 13th day of January, 2011.

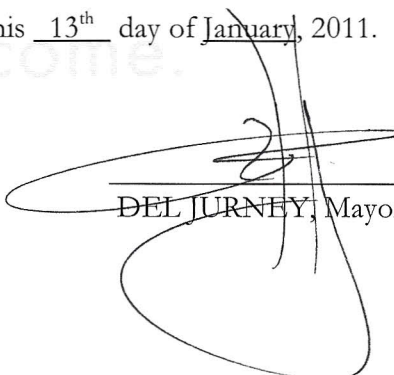
CITY SEAL

ATTEST:



DAVID KUNKO, City Clerk





DEL JURNEY, Mayor

ARTICLE 28: HOME OCCUPATIONS

Section 1. Purpose

The standards and regulations of this Article are designed to protect and maintain the character of residential areas while recognizing that certain professional and trade activities may, on a limited scale, with no physical outside evidence of a business use, be acceptable accessory uses in residential dwellings. These activities are subordinate to the right of surrounding residents to enjoy the use of their property for residential purposes and shall be allowed as permitted below in the R-S through R-4 residential zoning districts.

Section 2. Permits & Restrictions

- A. All Home Occupations require approval from the City of Roswell Business License and the Planning and Zoning Office. Minor Home Occupations require approval of the Planning and Zoning Staff. Major Home Occupations require an approved Conditional Use Permit by the Planning and Zoning Commission at a public hearing.
- B. Minor Home Occupations are permitted in all residential zoning districts, excepting the MHC and RVP Districts. Major Home Occupations are only permitted in the R-3 and R-4 residential districts.
- C. The applicant for the Home Occupation shall live on the premises and shall either be the owner of the residence, have some controlling interest in the property, or have the notarized, written consent and signature of the property owner or agent, which allows the Home Occupation to be conducted on the premises.
- D. Home Occupations may only be conducted after approval from either Staff or the Commission. Approval for Home Occupations may only be granted if the following items have been met:
 - 1. Home Occupation application conforms to the provisions of this Ordinance.
 - 2. Conditional Use Permit application conforms to the provisions of this Ordinance.
 - 3. Home Occupation will not alter the residential nature of the home or neighborhood.
- E. Conditional Use Permits for Home Occupations require an application fee. (See Fee Schedule)
- F. Violations. If it is determined by inspection or public complaint that the operation of a Home Occupation is in violation of any provision of this article or the Conditional Use Permit, action may be taken to revoke the Business License through City Council procedures. A violator may also be subject to legal sanctions.

Section 3. General Guidelines for Minor and Major Home Occupations

- A. Major alterations or changes of a residential property or structure, including but not limited to a setback variance request, shall not be allowed in order to accommodate for a Home Occupation.
- B. The traffic and parking generated by a Home Occupation shall not increase the volumes of those normally expected in a residential neighborhood. Deliveries to and from the Home Occupation shall not require the use of vehicles other than standard USPS, Fed-Ex, U.P.S., or similar vehicles. Deliveries by semi-tractor-trailer rigs are not permitted, nor shall the Home Occupation operator make use of these vehicles at the residence for any reason.
- C. No outdoor storage or display of goods/equipment of any kind.
- D. No sale or accumulation of salvage or recyclable goods.
- E. No flammable/explosive/hazardous products and/or materials deemed inappropriate for a residential use by City, State, or other governmental departments shall be permitted as a part of a Home Occupation.
- F. No activity shall be allowed which interferes with wireless telecommunications transmissions or reception in the

area or creates any offensive noise, vibration, smoke, dust, odor, heat, or glare.

- G. The sale of stock or merchandise out of Home Occupations shall be limited to items normally found in a residential dwelling as permitted in Section 4 and 5 below.
- H. No external evidence of an activity that creates a public nuisance will be permitted.
- I. No heavy equipment shall be stored or used except those normally used in residential homes.
- J. No mobile or temporary food establishments such as push carts, ice cream trucks, and other similar uses.
- K. No signs or other indications of a Home Occupation shall be permitted on the premises.
- L. Home occupations shall not generate the need for additional parking on the premises.
- M. Clients or students shall be permitted on the premises only between 8 a.m. and 8 p.m.
- N. Storage of items shall be totally enclosed within the floor area allowed for a Home Occupation. A site plan must be approved by Staff prior to the issuance of a Business License.
- O. Home Occupations are subject to inspection, with reasonable written notification, twice per year.

Section 4. Prohibited Home Occupations.

The following uses, by nature of the investments or operations involved, have a pronounced tendency once started, to rapidly increase beyond the limits intended for Home Occupations, and thereby impair the use and value of a residential zoning district. Therefore, the uses specified below shall not be permitted as either Minor or Major Home Occupations:

1. Antique, furniture, or gift shops.
2. Beauty, barber, body piercing, or tattoo shops.
3. On-site small engine repair shops.
4. Welding (Non-incidental to the Home Occupation).
5. Pet shops, kennels, animal hospitals, or other related pet businesses.
6. Funeral-homes, mortuaries, crematories, and other related services.
7. Restaurants, Bars, lounges, or similar types of businesses.
8. Merchandise/equipment rental businesses.
9. Taxi-cab service and/or vehicles for hire.
10. Tow truck service or storage of towed vehicles.
11. Construction contractor involving parking/storage of special purpose vehicles.
12. Auto; boat or motor vehicle repair, including body/frame repair, painting or sanding, rebuilding/reconditioning engines, trailers, vehicle steam cleaning or undercoating.
13. The sale of fuel, oil, or other products for propulsion or lubrication of motor vehicles.
14. Workshops for heavy carpentry, household furniture, or cabinet making.
15. Furniture refinishing and/or painting
16. Professional offices open to the public where client consultation is practiced.
17. Any use listed as a Commercial or Industrial permitted use.
18. Any other uses similar and comparable to the examples listed above that do not meet the intent and purpose of this Article and that are in any way detrimental to the character and nature of a residential zoning district.

Section 5. Standards and Regulations for Minor Home Occupations

- A. Minor Home Occupations shall be conducted entirely within the principal dwelling. Exceptions may be

approved by Staff for outside activities which create no public nuisance.

- B. Only persons residing on the premises shall be employed in any Minor Home Occupation.
- C. No more than 25% of the floor area of the home shall be devoted to the Minor Home Occupation.
- D. Private professional office which shall not be open to the general public. All meetings with a client shall be by appointment only and only one client shall be allowed on the premises at any given time for a maximum of 6 per day.
- F. Family Child Care Homes for children shall be limited to 6 children per day. (More than 6 children shall require a Conditional Use-Major Home Occupation).
- G. Family Adult Care Homes for adults are limited to 4 adults per day. (More than 4 children shall require a Conditional Use-Major Home Occupation).
- H. Instruction of students in music, arts, crafts, dance, and tutoring shall be limited to 3 pupils at a time for a maximum of 6 per day.
- J. Medical offices are permitted for personal use but not for the practice of the profession and not for consultation with clients except in the case of an emergency.
- K. Small home crafts and workshops or studios for an artist, photographer, writer, composer, dressmaker, tailor, typist, or computer programmer (some light carpentry or light welding incidental to the craft or art is acceptable). Such home workshops or studios shall not be open to the general public. Meetings with a client shall be by appointment only and only one client shall be allowed on the premises at any given time for a maximum of 6 per day.
- L. Mobile repair service conducted at the client's site (small appliance, computer, and electronics). No exception for outside activity or storage is permitted.
- M. Other uses that meet the intent and purpose of this section as determined by Staff.

Section 6. Standards and Regulations for Major Home Occupations

- A. Major Home Occupation shall only be permitted in R-3 and R-4 Residential Zoning Districts.
- B. A Major Home Occupation shall require a Conditional Use Permit approved by the Planning & Zoning Commission at a Public Hearing prior to the issuance of a City of Roswell Business License. Said Conditional Use Permit binds the applicant to the residential lot and is non transferable in any way.
- C. The business shall be conducted entirely within enclosed structures. Exceptions may be granted by the Planning and Zoning Commission for outside activities that do not create a public nuisance.
- D. No more than 1 employee, plus the inhabitants of the residence shall be on the premises at one time to conduct the Major Home Occupation.
- E. No more than 25% of all structures shall be devoted to the major home occupation and storage shall not exceed 10% of the total floor area and be wholly enclosed inside a structure. Accessory building(s) may be used for a Major Home Occupation if approved by the Planning and Zoning Commission.
- F. Instruction of students shall be limited to 6 pupils at a time for a maximum of 12 per day, or as determined by the Planning and Zoning Commission.
- G. Group Day Care Homes for Children shall be limited to 12 children, as determined by the State. The Planning and Zoning Commission shall determine allowable business hours based on the nature of the business.

- H. Group Day Care Homes for Adults are limited to 6 adults, as determined by the State. The Planning and Zoning Commission shall determine allowable business hours based on the nature of the business.
- I. Small appliance, computer, and electronics repair. No exception for outside activity or storage is permitted.
- J. Small engine repair as a mobile service, conducted at the customer's site. No outside activity or storage is permitted.
- K. Retail photo developing as a mail order service.
- L. Other uses that meet the intent and purpose of this section.

ARTICLE 29: NON-CONFORMING USES

Section 1. Purpose

The purpose of this article is to provide for the regulation of non-conforming uses and to specify those circumstances under which they shall be allowed to continue as legal non-conforming uses.

Section 2. Authority to Continue

Any use that existed lawfully, other than *Article 27 'Signs'*, prior to February 1, 1993 may continue to operate as that same use, as it did prior to becoming non-conforming, subject to the rules, regulations, and restrictions listed below. With regard to *'Signs'*, any sign use that existed prior to January 13, 2011 may continue to operate as that same use, as it did prior to becoming non-conforming, subject to the rules, regulations, and restrictions listed below.

Section 3. Restrictions

Any non-conforming use that does not conform to the regulations of the zoning district in which it is located, shall be subject to the following:

- A. **Repairs and Alterations.** Ordinary cosmetic repairs may be made to a building or structure devoted to or designed for a use not permitted in the zoning district in which it is located. No structural repairs or alterations shall be made in or to such building or structure, except those required by law or to alter the design and use of the building or structure to conform to the permitted use regulations of the zoning district in which it is located.
- B. **Additions and Enlargements.** A building, structure or sign devoted to or designed for a use not permitted in the zoning district in which it is located, shall not have additions or enlargements made to it in any way other than to bring such building or structure into compliance with the permitted use(s) of the zoning district in which it is located.
- C. **Restoration as a Result of Damages.** A building, structure or sign devoted to or designed for a use not permitted in the zoning district in which it is located, that is damaged or destroyed by any means, and where the cost of the repairs exceed 50% or more of its replacement value, shall not be restored except if such restoration results in a building, structure, or sign devoted to or designed for a use that conforms to the regulations of the zoning district in which it is located.
- D. **Discontinuance of a Non-Conforming Use.** In the event that a non-conforming use of a building, structure, premises, sign, or parts thereof, is discontinued for any reason for a period of 6 months, and such non-conforming use is changed to or replaced by a use conforming to the zoning district in which it is located, such building, structure, premises, sign, or parts thereof shall not thereafter be used or occupied by a non-conforming use, even though the building, structure, sign, premises, or parts thereof may have been originally constructed for the prior non-conforming use.
- E. **Vacant Non-Conforming Use.** In the event the building, structure, sign, or premises of a non-conforming use have sat vacant for a period of 6 months or longer, any use brought into said building, structure or premises shall be a use conforming to the regulations of the zoning district in which it is located and all requirements of this Zoning Ordinance shall be met before the new permitted use is allowed to operate, including the most current requirements for parking, landscaping, and general zoning and building guidelines as set forth in this and other ordinances.
- F. **Digital Signs.** Digital signs must conform to the provisions of Article 27 of this Ordinance pertaining to illumination, brightness, and flashing.

ARTICLE 30: PENALTIES FOR NON-COMPLIANCE

Section 1. Enforcement

Enforcement of this Ordinance will be governed by the City of Roswell's Building Inspectors and Code Enforcement Division with support from the City's Planning and Zoning Office, Fire Department, Police Department, Engineering, and Legal Staff.

Section 2. Inspections

The Building Inspector, Fire Marshall, Code Enforcement Division, Planning and Zoning Staff, and any other duly authorized City Staff shall inspect all buildings, structures, signs, and land to determine compliance with the rules, regulations, and provisions of this and other City Ordinances.

Section 3. Penalties for Non-Compliance

- A. Any person or party convicted of violating any of the rules, regulations, and/or provisions of this Ordinance shall be punished by a fine not exceeding five hundred (\$500.00) dollars and/or imprisonment in the county jail not exceeding 90 days. Each day that a violation continues shall constitute a separate offense.
- B. In the event of a violation of this Ordinance, the City may impose and collect, and the holder of a Building, Telecommunication's, Renewable/Alternative Energy System, or Sign Permit shall be subject to the penalties as set forth in 'C' and 'D' below.
- C. Notwithstanding anything in this Ordinance, the holder of any of the above mentioned Permits may not use the payment of fines, liquidated damages, or other penalties to evade or avoid compliance with this Ordinance or any Article or Section of this Ordinance. Any attempt to do so shall subject the Permit holder to termination and revocation of the Permit. The City may also seek injunctive relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the City.
- D. Any sign damaged or destroyed by any means and deemed hazardous to the public by the Building Inspector may be removed by the City with reasonable notice to the owner. All costs acquired for removal of the sign shall be the responsibility of the owner.
- E. Temporary and/or abandoned out-of-service signs may be removed by the City with reasonable notice to the owner and shall be stored for no more than 30 calendar days at a cost of \$5 per day. Any sign not claimed within 30 days will be deemed abandoned and subject to disposal or sale by the City.

Effective Date: This Ordinance shall be effective 5 days after its adoption.

PASSED, ADOPTED, SIGNED, AND APPROVED on this 22nd day of June, 2010.

CITY SEAL

DEL JURNEY, Mayor

ATTEST:

DAVID KUNKO, City Clerk